

OFFICIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE CALIFORNIA ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS

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COSTA MESA, CALIFORNIA; THURSDAY, MAY 29, 1997

10:00 A.M.

WELCOME AND INTRODUCTION

DR. HERNANDEZ: Good morning. This meeting of the California Advisory Committee to the United States Commission on Civil Rights will now come to order.

I am Fernando Hernandez, chairperson of the California Advisory Committee to the U.S. Commission on Civil Rights. The U.S. Commission on Civil Rights is an independent, bipartisan, factfinding agency. First established under the Civil Rights Act of 1957.

The Commission on Civil Rights is an independent agency of the United States government established by Congress in 1957 and directed to: investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices; study and collect information concerning legal developments constituting discrimination or denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice; appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws as a national clearing house for information about discrimination and; submit reports, findings, and recommendations to the president and Congress.

Advisory committees were established in each state and the District of Columbia in accordance with enabling legislation and the Federal Advisory Committee Act, to advise the commission on matters pertaining to discrimination or denials of equal protection of the laws because of race, color, religion, sex, national origin, age, handicap, or in the administration justice, and to aid the commission in its statutory obligation to serve as a national clearing house for information on those subjects.

Commission regulations call for each advisory committee to: advise the commission in writing of any information it may have respecting any alleged deprivation citizens' right to vote and to have the vote counted, by reason of color, race, religion, sex, national origin, age, or disability, or that citizens are being accorded or denied right to vote in federal elections as a result of patterns or practices of fraud or discrimination; advise the commission concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, age, or disability or in the administration of justice; and as to the effect of the laws and policies of the federal government with respect to equal protection of the laws; advise the commission, upon matters of mutual concern in the preparation of reports of the commission to the president and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials about matters pertinent to inquiries conducted by the state advisory committee; initiate and forward advice and recommendations to the commission about matters that the advisory committee has studied; and assist the commission in the exercise of its clearing house.

The purpose of the meeting today is to obtain follow-up information and views on an issue originally brought to this advisory committee's attention at a public forum held here in Costa Mesa in December, 1993. At that time, allegations were made that Orange County's government and justice systems ignore the needs of minorities. Participants at the forum addressed a variety of concerns, including the judiciary and court system and police - community relations.

At that time, this committee agreed to follow-up on several of the issues raised by the community. One issue raised by many of the participants at the forum was law enforcement agencies' conduct toward minority youth. Specifically, Orange County residents were alarmed at the practice of photographing minority juveniles -- especially Asian, Latino, and African American -- as suspected gang members. This practice was undertaken without the permission of either the juvenile or his or her parents, and was often precipitated merely by the mode of dress or physical appearance of the juvenile. Based on information brought to the attention of the advisory committee, complaints regarding this issue continue to persist in other counties and have warranted the advisory committee return to gather additional information.

Participants in today's factfinding forum have been requested to address the following issues: law enforcement's practices and procedures for identifying and classifying youth as potential gang members; the criminal, civil, and societal implications for such classifications; community concerns regarding the administration of justice as it relates to juveniles in Orange County; law enforcement concerns regarding public safety and controlling gang-related crime in Orange County; and recommendations for matching public safety objectives with community concerns for objective treatment.

Among those invited to address the California Advisory Committee today are other county law enforcement officials, community activists, students, university officials, and representatives of advocacy groups.

Based upon the information collected at this meeting, a summary report will be prepared for the United States Commission on Civil Rights.

Other members of the California Advisory Committee in attendance during this meeting are: Luz Buitrago, Dr. Edward Erler, Rose Boon Fua, Dr. Frank Mayer. The advisory committee members who were not able to attend are: Daniel Apodaca, Rachel Budd, Stanley Leopard, Sharon Martinez, Andrea Patterson, Mitchell Pomerantz, Dr. Kevin Franklin, in addition to Mr. Michael Carney. Also with us today are Philip Montez, regional director of the commission's western regional office in Los Angeles, as well as Thomas V. Pilla and Arthur Palacios, civil rights analysts with that office. Also, I think Stella Youngblood is also present.

MS. BUITRAGO: And Socorro.

DR. HERNANDEZ: Oh, and I'm sorry. Also, I neglected to mention Socorro (Corky) Reynaga-Olsen; and I apologize for that oversight.

MS. OLSEN: That's okay.

DR. HERNANDEZ: His factfinding meeting is being held pursuant to federal rules applicable to state advisory committees and regulations promulgated by the U.S.

Commission on Civil Rights. All inquiries regarding these provisions should be directed to commission staff.

I would like to emphasize that this is a factfinding meeting and not an adversarial proceeding. Individuals have been invited to come and share with the committee information relevant to the subject of today's inquiry.

Each person who will participate has voluntarily agreed to meet with the committee. Since this is a public meeting, the press and radio and television stations, as well as individuals, are welcome. Persons meeting with the committee, however, may specifically request that they not be televised. In this case, we will comply with their wishes.

We are concerned that no defamatory material be presented at this meeting. In the unlikely event that this situation should develop, it will be necessary for me to call this to the attention of the persons making these statements and request that they did he cyst in their action. Such information will be stricken from the record if necessary.

Every effort has been made to invite persons who are knowledgeable in the area to be dealt with here today. In addition, we have allocated time between 5: and 6:30 p.m. to hear from anyone who wishes to share information with the committee about the specific issues under consideration today.

At that time, each person or organization will be afforded a brief opportunity to address the committee and may submit additional information in writing. Those wishing to participate in the open session must contact commission staff before 3:00 p.m. this afternoon.

In addition, the record of this meeting will remain open for a period of thirty days following its conclusion.

The committee welcomes additional written statements and exhibits for collusion in the record. These should be submitted to the Western Regional Division, United States Commission on Civil Rights, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010.

Thank you for joining us this morning. Let us proceed.

I would like to begin to my immediate left and ask each member of the panel to state their name for the record.

MR. CONLEY: Yes. My name is John Conley, C-O-N-L-E-Y, assistant district attorney: I don't know that this mike is on.

DR. HERNANDEZ: Is that microphone on?

(a brief discussion was held off the record.)

MR. CREW: My name, for the record, is John Crew. I direct the police practices project. I'm the staff attorney for the ACLU for Northern California, C-R-E-W.

MR. PARACHINI: I'm Alan Parachini, public affairs director for the ACLU foundation of Southern California, P-A-R-A-C-H-I-N-I.

MR. TOMA: My name is Robin Toma. I'm an attorney and staff consultant with the Los Angeles County Human Relations Commission, and the last name is spelled t-o-m-a.

MS. VERASTEGUI: I'm Yvette Verastegui with the Orange County public defender's office. My last name is spelled V-E-R-A-S-T-E-G-U-I.

DR. HERNANDEZ: Thank you very much, and welcome. And I'd like to thank all of you for taking time out of your busy days to offer testimony today at this forum.

I'm going to ask that each member of the panel limit their remarks to about three minutes, so that the advisory board committee members will have an opportunity to do some questioning with respect to these very important matters. I'd like to ask Mr. Conley to open this session.

MR. CONLEY: Dr. Hernandez, we were told that we'd have a little bit more time than that, so I prepared some remarks which you have an outline of. My function was, according to Stella Youngblood, to kind of summarize what Orange County law enforcement is doing in the gang area and give you some basic statistics. I'm going to have trouble doing that in three minutes.

DR. HERNANDEZ: Okay. Well, how much time do you think you'll need, Mr. Conley?

MR. CONLEY: Possibly ten.

DR. HERNANDEZ: Okay. Let's keep it at about ten, then.

MR. CONLEY: Okay. I will do my very best.

DR. HERNANDEZ: Okay.

MR. CONLEY: And you do have an outline of my remarks. Basically, you might wonder why a prosecutor is giving an overview of what's happening in Orange County. We have chiefs of police that are talking in the afternoon, for example. And the reason is -- that I've been selected is that we have 31 cities in Orange County and some 23 different police departments, and most of the -- just about all the cases, except for Anaheim

Misdemeanors, are handled by the district attorney. So, we are the kind of central funnel. So, I will be talking about the cases that are filed.

We recognize that there is a certain amount of gang crime that never comes to the attention of the police and a certain amount of gang crime that never comes to the attention of the district attorney, therefore. So, I always point out that we're two steps from the streets. On the other hand, we are the funnel through which all the cases that are solved go through. So, we have some perspective on the issue.

Looking at Orange County -- of the people that -- I noticed, most of the committee are not from Orange County -- think of it as an affluent area with a very low crime rate. Actually, we are -- we are a very varied county, despite our reputation, among other places in the state. We have a significant gang problem in Orange County. We have over 20,000 people who have been identified as gang members in the computer, and we'll be talking about that. That, of course, is one of the controversial areas. We have some 382 gangs. As you know, Orange County is the third largest by population in California, and we have a significant gang problem.

Some people look at the gang problem as a problem of society dealing with ethnic groups, though I don't. If you look at the gang situation in Orange County, most of the victims of gang violence are not gang members and are from the same ethnic group that the gang members are from. Asian gangs tend to prey on Asian victims; Hispanic gangs tend to prey on Hispanic victims, and many times the victim is not a gang member his or herself.

So, it's not a simple kind of thing of how are ethnic minorities being treated. I will make the dilemma for you is: we want to be safe, but we want to have individual rights; and how we balance those two issues is the way our society will be judged.

In terms of Orange County, just some basic statistics: we had 42 gang homicides last year, which is a sad number; but believe it or not, that is good news because it went down 40 percent from the prior year. And why? People will give some credit to the target teams, which I'll talk about in a minute, and some of the preventative measures that have been done by the schools and other organizations, though criminal charges were filed against 3,500 separate petitions of complaints in Orange County. They're large numbers. Convictions were obtained in lots of the trials and so on.

In terms of the ethnic make-up of filed case and again those are cases solved, it was 64 percent Hispanic gang members; 8.5 percent Asian; and then, .4 percent other. That could be black or white, which are very small in Orange County in terms of the gangs. 5.5 percent were from other counties, and 8.2 percent were taggers. So, every gang is serious, but the most serious gangs in Orange County, by numbers at least, are Hispanic and Asian.

Orange County is known throughout the state as having a team approach to gangs. We have never felt that law enforcement was the total solution to gangs. In 1992, the chiefs of police and sheriffs' association got together with educators and private enterprise and treatment providers to try to deal with the gang problem.

So, to its credit, law enforcement has not felt that just tough sentencing is the sole solution. We do not. We do feel that tough sentencing is the solution for violent leaders of gangs, but we don't feel it's the solution for all.

In 1992, the great computer, which I'm sure there'll be a lot of talk about today, was instituted in Orange County. It started in Los Angeles; and "great" stands for gang reporting, evaluation and tracking system. I believe that there are good safeguards to ensure that people are not put in that computer haphazardly or based on rumors. 80 percent of the people in that computer have admitted to being the gang members.

The other big development in Orange County which started in 1992, is "target," tri-agency resource gang enforcement team. That was an innovative program by the Chief of Police from Westminster, which you're going to hear from this afternoon; and he decided that the treatment to gangs was much too fragmented: prosecutors were doing their thing in court, and police were doing their thing on the streets; and after conviction, probation was doing its thing. And he came up with a rather simple but effective idea of, let's put all these people in the same room. Let's have two police officers, a prosecutor, a district attorney's investigator, which is a specialized kind of prosecutor, and a provision officer and have them work together in the same room in the police department, not phone tags and e-mails and what have you. And he will go into this probably in more detail; but in the first year -- after the first year, he was able to show by rock-solid statistics that cal state long beach was looking at, that gang crime had gone down over 60 percent in one year. In looking at the state, that is an amazing record; and we believe that that is a precursor program for all other counties.

In 1994, we added teams to various other cities. So, there are now 11 teams in seven cities. We have also done multi-component grants of La Habra. Fullerton and Santa Ana have grants, where it's law enforcement, again, working with prevention programs. In Fullerton, for example, it's very heavily into truancy. We're not taking just a lock-'em-up approach in Orange County.

And finally, one of the areas you'll be talking about is the use of gang injunctions. In Westminster in 1993, we did a gang injunction. It was tossed out by the superior court. We went up on appeal; and then, it was mooted because, as you know, the California Supreme Court in January came down with a decision which opposed gang injunctions. So, as we look at the gang situation in Orange County, we have this balancing act throughout the legal system in the united states. We want to be free; we don't want to be rousted; but on the other hand, we want to be secure in our homes. And if I had time, I'd read you from some of the California Supreme Court's language in the injunction case, talking about how the people -- and this was in San Jose -- were

prisoners in their homes because of the activities of the gangs; and concluding with, the security and protection of the community is the bedrock upon which the superstructure of individual liberty rests. In other words, we cannot be free if we are plagued by criminals.

So, it's not an all-or-nothing thing. We can't go simply to individual rights or simply to law and order. In terms of the law, many people will be upset with the law; and perhaps, I and the public defender and the ACLU will not agree on what the law is today, but I will give you my view in terms of photographing, which seems to be one of the main areas of detention. As we walk down the street, can police take our photograph because we are there in plain view? I believe they can. You see surveillance tapes of people doing dope transactions on street corners. That's perfectly legal, I believe. You'll see tapes of John Gotti talking to people outside his restaurant in little Italy in New York, and that's perfectly legal. The problem is if police stop someone and detain them for the photographs.

You're probably familiar with a case that came out of Orange County in 1993, which was a situation where the officers said, "stay there," and talked to some minors and take their picture; and the court felt that simply because they looked like gang members was not grounds for detaining them, and I agree with that. Police are told in Orange County -- and it's been gone into in great detail with law enforcement -- that to detain someone to take their picture, you need some reasonable suspicion of criminal activity. Now, that doesn't mean certainty of criminal activity, but some reasonable suspicion. On the other hand, police have the right to go to talk to people consensually and say, "do you mind if I ask you a few questions?" That's considered all right, too. That's not a "stay here, you can't move" kind of king.

So, police do have the ability under the law, as I see it, both federal law and state law -- which I believe are just pretty much on point together on this topic -- to detain people if there's reasonable suspicion of criminal activity or to have a consensual encounter. That's the legal term for just a citizen talking to a police officer, and they can take pictures.

So, these are controversial areas, but I believe that's what the law is; and we'll see if my colleagues agree with that.

MR. CREW: Again, I'm John Crew from the ACLU of Northern California, and I'm here today because we're very pleased that this committee is looking into these issues. These are issues that we believe have much broader impact than just Orange County. They're issues of great importance throughout the state; and indeed, we believe will be an increasing importance nationwide.

And I would like to pick up on what Mr. --

REPORTER: Can I ask you to slow down just a little bit?

MR. CREW: In the interest of time, with a ten-minute limitation, I am going to respectfully request permission to talk fast and supplement the record later, if you like.

I understand you may not be able to keep up, but we've got a lot of information to cover. I don't know what the pleasure of the committee is.

DR. HERNANDEZ: Okay. Let's try and strike a balance somewhere in between talking moderately fast, okay?

MR. CREW: Are these proceedings audiotape-recorded, as well?

DR. HERNANDEZ: Yes, I think we have one -- well, that's for the press. This is the record here.

MR. CREW: Again, we would be happy to supplement our presentation with written comments, if that assists you; and as you know, we've submitted a lot of written materials already.

I apologize to the court reporter. We have a great deal of information.

REPORTER: That's okay.

MR. CREW: I did want to start with some common ground with Mr. Conley. Certainly, no one would dispute -- the ACLU wouldn't dispute -- the enormous toll that youth crime and violence takes in so many of our communities; and in some ways, that's the most important factor. The concerns that we have, in some ways the most important part of it, is how those concerns interfere with law enforcement, with the community's efforts to deal with youth crime and violence.

So, it's not just the damage that is done to the fourth amendment, if in fact young people are detained without cause or consent or photographed in those circumstances; it's not just the enormous privacy implications when government creates a database of hundreds of thousands of individuals who have not been arrested or convicted of crimes; it's not just the due-process concerns, when people are labeled as suspected gang members without notice, without any opportunity to appeal and at times, almost through a guilt-by-association context; it's not just the civil rights implications, when these tactics seem to be applied almost exclusively to people of color. Those, obviously, are important issues and important issues to the ACLU; but ultimately, you have to come back to the problem of youth crime and violence.

Law enforcement executives around the country understand that the best weapon they have in fighting crime is community trust and confidence; and if you're going to work on youth crime and youth violence, you need to be very careful that you not alienate the very population you need with over-aggressive or overbroad tactics that you will need

to solve that problem. So, I think that we're in agreement in that context with Mr. Conley.

I think where we do disagree, and where I want to focus my remarks, is the great database. We believe there are no adequate safeguards to protect people from being falsely labeled "gang members" in the system. And in the brief time that I have, I want to briefly describe the great computer: what it is, how people get in, how they get out, if they can get out, who is being labeled in the great computer, and why we believe this great database is growing.

First of all, the great database, now, is a statewide computer system. There are 200 to 250,000 individuals who stand accused in this database of being gang members or gang associates. To our knowledge, the vast majority of the people in that system do not know that they have been accused, and they've been given no opportunity to contest that label; and it is not just physical records, data regarding the individual, but the system now has the capacity to enter digital photographs, digitized photographs into the system that are, then, retrievable. And as a statewide system, that means that law enforcement agencies that are online have access not only to their own gang records but, now, gang records from anyone else that is part of the system that has entered that information.

And our most recent information is that there are at least 150 agencies -- law enforcement agencies that are online, primarily in California, although we understand that there are at least four states participating.

There is an independent federal gang computer being created. In the interest of time, we cannot talk about that right now; but with respect to the great database, you have 150 different law enforcement agencies entering records. And if

The Orange County regional node of great wants information, they can pull down records and -- in some situations -- photographs from, for example, the Petaluma Police Department in Sonoma County. That is the scope of this system. And what's most remarkable about great and what is completely unique, in my experience in years working on police issues for the Northern California ACLU, is that this is an intelligence database that has been created and has grown without standardized criteria.

It was confirmed to us last week that, at this moment, there are no statewide criteria defining who should be labeled a gang member and who should not be labeled a gang member; and in some of the information that we've provided you, we have shown that this has been a topic of conversation within law enforcement for five years. And from our point of view, you begin a database, and every other database that I'm aware of, with intelligence records by defining who it is you are trying to label to begin with; and then, you begin collecting the information. This database has reversed that and has gone the opposite direction.

In the absence of statewide criteria, we have seen and have collected a variety of policies from law enforcement agencies around the state. We don't have time, at this point, to go point by point in some of the criteria, but I must tell you, if you look at it, some of the approaches appear to be almost a we-know-it-when-we-see-it kind of approach; that we label "gang members" almost on the duck test: if it walks like a duck or waddles like a duck, then it must be a duck.

Well, if you're talking about labeling somebody with such a stigmatizing label as being a gang member, you ought to take much more than that superficial glance. There ought to be fundamentally particular information that -- to believe that that individual is engaged in criminal activity. And the great database and the entries ignore some basic realities:

No. 1, not every young person that fits some stereotypical image of what a gang member looks like is, in fact, a gang member.

No. 2, not every association of young people, even if you want to call them a gang, is necessarily a gang that is engaged in criminal activity.

And no. 3, even in those situations where a gang is engaged in criminal activity -- it is a criminal street gang under the penal code -- not every member in that gang is necessarily a participant or has knowledge or is promoting those criminal activities; and those basic fundamental concepts are being ignored in the great database.

And, perhaps, the best way to explain this is to, perhaps, use an example, putting the shoe on the other foot: if we had a law enforcement agency where a small group of officers, five to six officers, was engaged in a pattern of criminal corruption and criminal extortion and engaged in a pattern of harassment and intimidation in the neighborhood, obviously everyone would agree that those four or five officers ought to be treated as criminals and prosecuted; but I don't know that anyone would suggest that everyone else who happens to be a member of that police department, by virtue of using the same symbolist uniforms and being part of that organization association, also ought to be viewed as suspects because some individuals in that group are, in fact, criminals. Yet, when we're talking about gangs and when we're talking about creating intelligence databases, that's exactly what we're doing to young people all over the state. We are punishing them. We are labeling them based on their associations. I don't have time to get into all the criteria.

I heard, for the first time, the figure that 80 percent of the people in the database are there based on the self-admission criteria.

MR. CONLEY: That's Orange County.

MR. CREW: Okay. I was going to ask if that's Orange County or not.

Even looking at self-admission, just for a moment, I need to ask people to stop and think. First of all, when people are asked that question, you have to think about the circumstances in which they are asked. I am not aware that when people are asked that question, law enforcement asks, "are you a member of a criminal street gang with knowledge and acted participation that you're engaged in criminal activity?" I am not aware that law enforcement says, if you say, "yes," you're a member of a gang, we're going to put you in a database that's going to be accessible to law enforcement around the county; and I'm not aware -- "self-admission" sounds like an inherently reliable criteria, but think about the real world. If you're out there, teenagers, stopped collectively by law enforcement; and an officer asks you who you claim, the reality, for better or worse, is there's a lot of wanna-be's out there. And some kids are gonna say, "yeah, I'm a such-and-such gang member," because they want to act tough. There will be some situations where people are going to have to claim gang membership for their own self-protection. That self-admission, in and of itself, is not any particular reasonable suspicion to believe that someone is engaged in crime; and that is the fundamental flaw in the system.

We have given you a memorandum -- a legal memorandum prepared by the California department of justice three years ago that points out very clearly, there needs to be a criminal predicate for any intelligence information entered into this sort of database. Three years later, that problem still has not been solved by this database. Who gets into this system? Overwhelming, people who get into the system are people of color.

Three weeks ago at a gang symposium, the L.A.P.D. released numbers that showed, for their part of the database, 98 percent of the people that had been labeled as gang members, associates, or affiliates -- 98 percent were people of color; in San Jose, 97 percent; Alameda County Sheriff, 97 percent; Contra Costa County Sheriff, 100 percent African American; San Leandro, 89 percent; Sunnyvale, 87 percent; Hayward, 83 percent, and on and on and on. We are attaching this label almost exclusively to young people of color.

I want to throw another number at you. It's not just the proportion of young people in the database that are people of color, but what are your chances of being labeled a gang member? The district attorney's office in Los Angeles -- not the ACLU, the district attorney's office, in 1982 -- 1992, looked at the great numbers in Los Angeles County, and they found if you were an African American man between the ages of 21 and 24, 47 percent of the total population in that category had been labeled in their gang records as a gang member or gang associate. You had a one-in-two chance for the full population having had that stigmatizing label attached to you.

And in fairness to Los Angeles, they're not alone. Three years ago, the Denver police released figures showing that two out of three young African American men had been labeled "gang members" by that computer. The NAACP spokesperson called it a "black list"; and to the credit of Denver, when those figures came out, they acknowledged that there must be something wrong with the criteria they were using.

And they undertook a massive purge on their system and reevaluated that system in a way that has not taken place in California.

Let me wrap up, in interest of time, by saying that part of the problem is: once you get in the system, it is very hard to get out. The only purge criteria is if there's no activity in your record within five years. "no activity," means that law enforcement hasn't stopped you and updated your record. Let me back up a second. The great -- the general accounting office five years ago did a survey -- a sample of the Los Angeles numbers. They found that in that particular community, 44 percent, nearly one in two people that had been entered into this system, had not been arrested. Okay, people should not assume that the people that are in this database are active criminal gang members. I think that statistic, in and of itself, shows you how overbroad this system is. Yet, when you get in the system, you don't get out, okay, unless you have -- essentially have no contact with law enforcement for five years. It doesn't mean arrest and conviction. It means, if I've been labeled a gang member four-and-a-half years ago, and I get detained for some particular reason, law enforcement updates my address, I'm in for another five years.

Now, there has been a lot of debate, and law enforcement criteria has begun to shift somewhat. What we don't know is whether or not -- if the criteria changes, whether or not they will purge all of the old records entered under what will, then, be admitted as unreliable criteria.

Finally, let me just point out two things: one of our concerns is a financial motivation on the part of law enforcement to overestimate the size of gang membership in their community. With shrinking local dollars -- government dollars to pay for a variety of community services, including law enforcement, people understandably turn to grant funds; and some of the grant money that's available through the state office of criminal justice planning, through the federal government, through the cops program, and through the department of justice is understandably aimed at focusing on gang tactics. But let me

Give you one example: the Oakland Police Department last year submitted a anti-gang application -- grant application to the federal government, and they claimed that they had documented a 300-percent increase in gang membership in Oakland in just a three-year period, at a time where the crime rate was dropping.

A 300-percent increase in gang membership is almost beyond belief; but in return, they were awarded a half a million dollars for their gang-tracking efforts. Of that half-a-million dollars, 80 percent went to pay for police officer salaries and fringe benefits. And we are seeing similar sorts of concerns in areas as far north as Tule Lake, where law enforcement is systematically going out to create a gang list that apparently

Doesn't have particular investigative value.

In close, we have been down this path before, where people are labeled a certain way; where government keeps a list of individuals, sometimes based on someone identifying them, without any sort of opportunity to know or contest that particular label. In those days, the label that was attached was "communist." These days, it's "gang"; and these days, it's happening almost exclusively to people of color. It is destructive not only to our civil liberties and civil rights, it is destructive to police-community relations, which ultimately is crucial to address this issue.

Thank you for your patience.

MR. PARACHINI: Thank you very much. I'll try to be very brief and race through two different issues.

First of all, I feel very much like a minority here at the table. I'm the only non-lawyer; but I want to assure you in opening -- and I'm going to talk a little bit more about gang databases, and I'm also going to talk about gang injunctions and make some references to a report that the ACLU of Southern California released just yesterday, concerning gang injunctions, which I believe will, somewhat, counteract what Mr. Conley has said about them.

First of all, let me assure you that the ACLU does not oppose, in principle, the existence of databases to track criminal suspects, including gang members. Let me say that again: we are not opposed to gang databases. What we are opposed to is the sort of garbage in, garbage out non-standardized, unaudited, subject-to-no-oversight system that has come -- evolved -- or has come to be through a gradual evolution in this state, piece meal, over the last five years.

We're assured that there are, even today as we sit here, no statewide standards for inclusion or exclusion of individuals from gang databases in California. We are told, as recently as last week by the chair of the law enforcement committee that runs the great database, that there will be no such state standards in California before the end of the summer of 1998, at the earliest.

So, what you have, now, is a hodgepodge of standards for who gets in and how, and who gets out of the database and how, spread around 200 to 250 individual law enforcement agencies throughout the state.

This has the result that -- and I'll ask you to imagine for a moment that each of you at the table here is -- has in your household a young adult male Latino child -- even though the only person I know is in that position is the chair -- and this young adult child of yours is seen by a police officer talking, riding in a car with a gang member. He effects a method of dress that police officers think is similar to the way some gang members dress, and he is seen walking up to a group of gang members who are

smoking a joint; and one of the gang members hands him that marijuana cigarette, and he takes one hit off of it.

There is a police department in this state right now, this minute, that would enter your child into a database as a gang sympathizer based on those three criteria: the way he dresses, who he was seen talking to, and he took one hit off of a joint handed to him by someone thought to be a gang member. If you added the factor that he effects -- or that he was seen in a group photo at his prom with others who were identified as gang members who also attended the prom, he would be, in that database, a gang associate.

And I would suggest to you that one of the problems here is that up to now, there are no state standards for how you get into this database and how you get out of it. There are no auditing and oversight standards. There is no one out there examining and scrutinizing closely how each individual department's database is being operated. Right now, we have 250 potentially rogue elephants in this state, and no one is trying to corral the elephants.

Finally, there is no civilian or any other kind of oversight of the operations of these databases soon to be -- soon to transition from the database -- or great is actually not one database. Great is, in essence, a network of dozens or hundreds of little databases.

The final point I would make about great and databases is that they have evolved in a very curious and unique way in this state, largely assisted by the existence of a private entity, the law enforcement communication network. And I think that in our correspondence with the commission that preceded this meeting, we have raised some questions about whether this is the most logical and appropriate way for highly sensitive public law enforcement business to be done under the aegis, especially in the organizational phases of great, of in essence a private company that is accountable to no one.

I'll quickly transition to gang injunctions. I was curious to hear the deputy district attorney say that the Westminster gang injunction case, which was out of our office, had been mooted out by the Acuna ruling by the California Supreme Court. That's not quite the case. We were in the court of

Appeal at the time the Acuna case came down from the supreme court. It was our view that the facts in the Westminster challenge to the gang injunction there were different enough from the case decided in Acuna that we would proceed with that appeal regardless of Acuna.

In the appeals court, the Orange County district attorney's office moved to dismiss its own appeal. Their prerogative, but it's not exactly as if the Acuna case blew the Westminster case out of the water.

I read the same portion of the Acuna decision that Mr. Conley read. It's in the report that we've handed to you this morning; and it is true that there sometimes has to be a balance struck between civil liberties and civil rights and the need to assure public safety; and the ACLU doesn't now and never has challenged the assertion that that is sometimes true.

For example, we do not say that you can – you have an ultimate and complete first-amendment right to make verbal physical threats. You don't. Nor do you have an ultimate first-amendment free-expression right to engage in verbal sexual harassment. You do not have that right. But what we do say is that when you abrogate those rights, you have to do so under circumstances where there is a countervailing need and potential benefit.

And our report released yesterday examines a gang injunction that remains today probably the best known in California. It was issued in the Blythe Street neighborhood of the San Fernando Valley in 1993. Sorry for not having this so the audience can see it.

MR. CREW: I'll hold it up.

MR. PARACHINI: But this is a map of the Panorama City, California area in the San Fernando Valley. Blythe street, the famed area that was overrun by gangs, is right here in the middle of Los Angeles police department reporting district 925. These numbers are other -- 18 other Los Angeles police department reporting districts that surround Blythe Street. What we decided to examine is what happened to violent crime, calls for police service, and felony drug arrests in this area, starting with Blythe Street itself and expanding throughout Panorama City.

This is not a set of standards conjured up by some wackos at the ACLU. Those are criteria that we took directly from administrative reporting standards devised by the L.A.P.D. for assessments on the division basis throughout the department of what was happening in terms of violent crime in 1993; and what did we find? Yes, there was certainly a threat to people posed by the Blythe Street gang, particularly here in reporting district 925. There is no doubt, whatsoever, about that. People were being held prisoner in their homes. Gangs do not have a Constitutional right to do that.

What do you think happened to crime in the Blythe Street neighborhood after that injunction was issued? Here it is. It jumped up. Here's where the injunction was filed for; February, 1993. Here's where it was granted; April, 1993. Look at violent crime. "violent crime," I mean homicide, rape, robbery, and aggravated assault. It jumps up. Yes, it went up a little bit in that period in the city of Los Angeles. This increase is astronomically higher than what the city experienced as a whole.

Then, we looked at four reporting districts that comprise a neighborhood just north of Blythe Street. For those of you who may have been following a Los Angeles Times series on gangs that ran this week, it is set in the area that we looked at next. It's an area that runs from the San Diego Freeway, Interstate 405, to a couple of blocks east of Van Nuys boulevard. Right here, to right here. It runs from Roscoe Boulevard to Nordhoff; and what we found in what we now call "the Roscoe Boulevard strip," this is crime. This is what happened in those four reporting districts right next door to Blythe Street. That crime -- that violent crime jumped up in the 6 to months after this injunction, even more precipitously than in the neighborhood the injunction covered itself.

Finally, we looked at the entire Panorama City area, 19 reporting districts. We selected those based on two criteria: first of all, they are identified by the L.A.P.D. as reporting districts with significant violent crime problems. No. 2, they were either right on bordering Blythe Street or so close that they were a stone's throw away. Violent crime in those 19 districts comprising Panorama City jumps up in the months after the injunction.

This injunction didn't fix anything. This injunction was sold to the people of Los Angeles County on the grounds that it would cause violent crime to drop through the floor. On the contrary, violent crime went through the roof. So, I would suggest to you that what we have discovered is an anomalous, and I would say -- I would have to admit, illogical situation. I would have expected, particularly in the Blythe Street neighborhood itself -- in fact, when we started this study I bet one of my interns five dollars that we would find that the Blythe Street reporting district showed, if anywhere, a down-trend in violent crime. I lost that bet, and I paid him off last week. We didn't even find that logic prevails. We thought there might be some evidence that crime would move out of an area that was the focus of enormous law-enforcement attention, and move into another neighborhood. That clearly happened in the Roscoe Boulevard strip; but throughout the region -- throughout the entire Panorama City area that was supposed to benefit from this injunction, it was supposed to be saved by this injunction, violent crime went up.

I'll conclude by saying that anyone who that gang injunctions are a cure for the plague and the scourge of gang violence in our society ought to be charged with practicing quack medicine. Thank you.

MR. TOMA: My name is Robin Toma, and I'm with the L.A. County Human Relations Commission; but clearly I'm out of my jurisdiction. And the reason why is because I'm here today to talk to you in the capacity of a former ACLU staff attorney, Southern California, in which I brought a lawsuit on behalf of Vietnamese American girls who were detained and photographed by the garden grove police department.

That lawsuit was settled in 1995, but I thought it would be useful to take all of the talk that we've heard, in terms of the theories and the generalizations about what goes on,

to a very specific incident, and to see how it actually played out. What happened in the summer of 1993, was that a couple of honor students -- -year-old honor students were at a mall in garden grove waiting for -- they had been to a karaoke cafe, where they decided that the crowd was too old for them, and they wanted to find -- do something else. So, they went to the phone, and they were waiting for a friend at the phone in this mini mall. It was about 7:00 o'clock in the evening, way before any curfew; and it was still light outside, when they were approached by a couple of officers. It turned out that these were gang unit officers who began to interrogate them about how they -- what were they doing; were they there to get into trouble; were they gang members. They denied all of this; but yet, the officer, using the duck standard -- that is, if you look like a duck, you walk like a duck, you must be a duck -- told them that they must be gang members because they were wearing baggy pants and tight-fittings blouses, and they were young and Asian, and they were hanging out in a mini mall. Apparently, that's one of the places that police department views as a hangout for gang members; but for many of the people that were there, they had no idea that's how they were being viewed.

Well, it ended up that they were there for about an hour, sat down, questioned about all sorts of personal information, repeatedly told that they were going to be getting in trouble; and in the end, they were photographed, and they were let go.

During no time were they told about any crime that they might have been suspected of being involved in; at no time were they told what was going to happen to their photograph and why it had to be taken.

The reason why this lawsuit came about was because the parents, when they learned of what happened, were outraged. They were people who had had some experience in learning about the rights that Americans have in terms of being treated by the police, and they decided they weren't going to allow their children -- they may have been victims of discrimination, but they weren't going to allow their children's future to be jeopardized by this action. And so, they insisted in bringing a lawsuit, and that's how this came about.

The first thing, of course, we did file a claim with the garden grove city government, and that was routinely denied; but when we presented the lawsuit, we began the discovery of what the practices actually were, we found that in deed this was not an exception. I think the only thing that was exceptional was the fact that there were parents who felt strongly enough to bring a lawsuit and to expose themselves to the kind of public attention and the rigors of litigation. What we found were thousands of people, like these two young women, who ended up being categorized as gang members or gang associates; were not even either of the two, but yet were photographed.

The problem of this entire practice really seemed to focus on the overriding priority that the gang unit had to build their gang files, to be able to net as many individuals who could be thought of as gang members or associates. And once again, there was a

criteria that was in effect for much of the time prior to that for simply by being an associate. By being a friend of a gang member could qualify you as a gang associate. And of course, during the course -- during this investigation, they forced them to take out their wallets; they looked through their pictures -- their personal photos, read the backs of them, made some wild leaps of logic, in stating that if they had monikers -- like, she called herself "puppet" -- well, then she must be a gang member. So, if you've ever called yourself anything but your real name, that's one notch there in the gang criteria list.

And then furthermore, if they recognized anyone -- they thought they recognized anyone in that set of photographs, that was also another basis; but this is not what was spoken in terms of what they will tell you, what the officers told us in deposition; but yet, it is certainly what the practice was.

And I think that, as a result of the litigation, we eventually came to a settlement, and I think that -- I don't know if you have the terms of the settlement, and I'm going to submit the entire settlement agreement to you because I think that it's very comprehensive and much more than I can say in this time period. But I do want to point out that the basic terms of the settlement come out of the very problems that we identified in the course of this litigation.

First of all, it makes very clear that in order for people to be photographed, they have to give their consent in writing. In other words, what happened so often is that people were photographed; and when the police were challenged, they would say, "well, they consented," but without any proof of that, other than their word against the young person. So, we insisted that it be in writing and that it serve a legitimate law-enforcement purpose. That means that because you believe that they're a member of a gang is not sufficient to simply conclude that they are, therefore, involved in criminal activity and, therefore, a photo is necessary.

Also, we made it part of the settlement that simply knowledge or suspicion of gang membership or affiliation, without any more information, is insufficient to stop a person -- to stop a young person or certainly to photograph them. Once again, there has to be a clear indication that there was criminal conduct suspected -- reasonably suspected; and we said if you don't find it -- say, if your suspicion is based on a taillight that is broken or on the fact that they look like someone who was reported in a car theft, that that's not going to be enough, if by the time that they interview that person in the detention, they find out that that reasonable suspicion is not justified, they have to desist from taking a photograph.

But a larger problem, even more than the photographs, turned out to be field interview cards. What's called a "field interview" is simply a detention, where they're stopped; they're held there; and they're asked a series of questions. And a card is then filled out, which is then entered into the computer database. And it turned out that -- that because of whether or not a camera was available often dictated the photographing,

the field interview card was the most commonly used practice for building a massive database in garden grove. And what we found is that there was such scant facts on that card, it was hard to know how they determined a person was a gang member. In this case, we know that Min Tran and Queenie Pham, [phonetic], vehemently denied, repeatedly, over and over, that they were a gang member, yet they ended up being photographed.

In the settlement, we make it very clear that the officers have to actually write in their field interview card the reasons, the facts that give rise to this reasonable suspicion of gang activity; and that has to be reviewed by a supervisor. And finally we -- I'm leaving out a lot of settlement terms; but to set a focus on the major ones, we also set up a process where individuals can then go to the police, if they feel they've been photographed unjustly, and challenge it through being -- going before a three-member panel of civilians and raising the questions as to why their photograph was taken.

Now, I have to say that none of this was incredibly innovative, because most of it just conformed with existing law. And what it was -- the purpose of most of it was to ensure that the law -- the legal rights of these young people would be respected. And I think that, you know, just to look at what the impact of this incident was, you know, we're talking about how can police be more effective in confronting violent gang activity. We hear, all the time, discussion about community policing as a key to this problem; and yet, I can tell you very clearly that the parents in this case, and many other parents, felt a great deal of anger and distrust coming out of this incident. They know their children; and while it's not always true that parents always know their children that well, we know that in this case, the parents knew their children well enough to realize that this was completely outrageous. And as a result, the children, in fact lost, their -- they had, prior to this incident, very positive views of police officers; and those, of course, have been changed forever. And I think the parents, as well, feel a great deal of mistrust; and that it does damage for the ability for police to have the community cooperate with them in effectively fighting juvenile crime.

And I want to also say that I think that what we asked for in the settlement and what was agreed upon by the garden grove police, some of it was not -- we had to compromise. So, there's some parts, such as talking about the great standards, which we don't totally agree with; but we found it acceptable for this given moment in time. But if we were to impose statewide standards, I think it would be different. Certainly, a lot of the protections of due process: allowing people to remove their photo from the system; ensuring that people, before they're photographed, give written consent, knowing and voluntary consent; and ensuring that there are ways to have officers identify the real facts underlying their basis for the detention are all essential if we're going to avoid the kind of wide sweep of young people of color that the -- these practices have resulted in. Lastly, I just want to say that, you know, as a -- someone involved in human-relations work now, and looking at the degree of gang violence, I know the toll that it takes.

I also want to point out that looking at urban riots, the recent study showed that almost the vast majority of urban riots occur when a police incident occurs that is viewed as unjust -- the outcome of that police conflict with the community member is viewed as fundamentally reflecting injustice of the system; and that is precisely why I think that it's so important that communities and police agencies have to look for ways of fighting crime that aren't going to miss -- disregard the fundamental rights of the members of the community.

So, with that, I'll submit this for the testimony and be available for questions later.

MS. VERASTEGUI: Good morning. My name is Yvette Verastegui, and I'm with the Orange County public defender's office.

I wanted to begin my discussion by stating that I understand, as well as everybody here understands, that gangs are a problem. I'm not here to say that they're not. In addition to that, I'm also here to state that not all police officers are the enemy. I also know that they're not.

Given that, I'd like to move on. Being a member of a gang or a click or a group is not a crime. It only becomes a crime if, in fact, it falls within Penal Code 186.22, defining a criminal street gang as someone who actively participates in a criminal street gang, someone who has knowledge of a pattern of criminal street activity, and somebody who willfully promotes the gang through some sort of felonious conduct. Those are the criteria for making a person, basically, a criminal street gang member.

I wanted to begin at the very beginning. Normally, I come -- I become involved after a case or files have been -- charges have been filed; but I wanted to begin where police first encounter, and I think that the best example in this would be the Rodriguez case, which was out of Orange County.

I just wanted to give the exact situation of that: there are two police that were assigned to the gang unit. They had their gang, basically, gear on. It has "gang unit" on the back of the jacket. What they saw is four Latinos socializing, basically, in their neighborhood at their house. There was no criminal activity that was suspected. Nothing else was going on, but the mere fact that these four individuals were talking and conversing amongst themselves.

The police approached these four individuals with a purpose of obtaining their information, taking their photographs, inquiring as to their gang affiliation, and writing all of that down on field interview cards, which would later then be put into a gang book.

The police ordered the four individuals to "stay there." They, then, patted them down for any sort of weapons. They had them sit on the curb, as they interviewed each one individually. They obtained the following information: their name, their date of birth, their social security number, their address, their gang affiliation if they had any, a

moniker, a nickname, and their associates. Anybody that they hung around with. They compiled all of that information and was able – and were able to put that in their gang book.

This example out of the Rodriguez case, basically, continues to happen. And in my practice, I've spoken to a lot of young Latinos, African Americans, and Vietnamese clients who indicate that this is an ongoing event. What the police were looking for in the Rodriguez case -- and I think on a daily basis -- are factors which determine whether somebody is or isn't a gang member.

The main factor that they look at is race, and that's proven by the statistics in the great database -- in the great -- anyway, they look at race. And specifically, each police department will deal with the race differently. Say, for instance, Latinos. They will target them in parks, and they will also target them at their -- in their neighborhoods because that's where they believe that they congregate. Asians, they target them in coffeehouses; and African Americans, they target them, basically, when they see them in Orange County, because we have very few.

in addition to race, they also look at residence. If you look at Orange County, we do have a big gang problem, specifically Santa Ana. Santa Ana is a small city; but within that city, we have numerous gangs all divided up. You can go from one block to another and be in a different territory.

So, based by the mere fact that somebody's in a particular area in Santa Ana, the police will then use that information to then say, well, this person obviously associates with the gang members, obviously knows gang members, et cetera.

In addition to that, we have clothing and appearance. I understand that we're focusing on Orange County; but my research expands not only to Orange County, but to all of

The State of California and with that, I would like to, basically, describe what Contra Costa's manual said in their description of black gangs and their appearance.

They described two basic types of gang clothes: the first is the type that will lead the observer to the conclusion that the individual belongs to a gang, without specifically identifying which gang; the second type of clothing specifically identifies the gang, and that clothing is baggy pants, large shirts.

It's all encompassing. And if you go anywhere in this county or in Southern California or Northern California, you will find in predominantly white neighborhoods, individuals wearing big, baggy clothing, dressed very similarly to those that they perceive as gang members.

In addition to that, we look at associations. The police officers often look at associations when doing the field interview cards. If anybody knows or has a family

member or lives in a particular area and knows a particular people in a gang, they will then use that association to, then, identify somebody as an associate or potential gang member. Essentially, this was all in the Rodriguez case; and as I indicated, this is basically what happens on a daily basis.

I just wanted to note, in Orange County, in south court -- this involves the injunctions and field interview cards -- we have had police officers go into the tank before we have gone to discuss the facts of the case with our client, where a police officer is doing a field interview card on them while they're in custody or serving them with an injunction as they're there. That was just a side note.

There's -- I mean, there's numerous questions in regards to Constitutional issues involving this. First of all, there's first amendment issues, freedom of association and freedom of expression; and then, there's the fourth amendment issues, when they stop, detain, question, photograph these individuals. Police officers will constantly say that this is a consensual encounter; but if you talk to the individuals, they feel coerced, and they feel roused. They don't feel as though that they are being asked to do anything. They feel they have no other alternative and no other choice, but to provide the information the police are asking.

From a practitioner standpoint, when I become involved is when a crime is charged, when a file has been filed -- a petition has been filed in terms of juvie court. And what we'd normally do is we initially, if there's a gang enhancement allegation -- which again refers to Penal Code 1186.22 -- what we do is we try to attack it on different levels.

First of all, we attack it on whether or not there's been a violation of the person's fourth amendment rights in obtaining this information. That information only goes to the gang enhancement. It doesn't go to the actual crime. So, they can be charged with a crime and still be convicted of a crime; but if we want to disprove that this person is, in fact, a gang member and so that they won't get the additional enhancement and the additional penalties, we have to look at how the information was obtained. And unfortunately, we are not very successful along those routes.

What we normally, then, do is in terms of questioning the police officers, we question the accuracy. We get field interview cards that are one-to-two-years old. During that course of time, the person has not had any contact with the police; and even if they self-identified themselves as associates or even a member, we don't know what's gone on in between the year and the year and a half where they have not had any sort of police contact. They could have disassociated themselves from the gang. They could have been jumped out, whatever; but what they're doing is they're using this outdated information to, then, prove-up a gang enhancement allegation.

In addition, we don't particularly know whether or not this particular crime was done for the purpose of furthering this gang. We could have any type. Say, for instance, a robbery. That person could have a drug problem and is committing this robbery not for

the purpose of benefiting the gang, but for the purposes of getting money to support their habit; and so, that's problematic.

In terms of proving-up a gang enhancement allegation, it's very easy. What the police do is they testify as experts in this area, and what I like to refer to them as "pseudo-expert testimony." What they do is they come in, they say that they've had a lot of interaction with these communities; and then, they basically go on to detail the gang, the area, and the violence in that particular community.

There's really no formal education. They're not psychologists or sociologists. They come in and make a lot of broad generalizations using the criteria of race, residence appearance, associations to tie this particular individual to this particular gang.

They also, again, use broad generalizations in terms of, well if a person self-identified as a gang member, regardless of how old the field interview card is; once in a gang, always in a gang. They, then, further go on to say that this particular person has knowledge of each and every other individual that's in that gang and that criminal activity that they're participating in without any sort of support for that.

Basically, they just come in and testify as experts. And their testimony is very flexible in terms of the fact situation. Say, for instance, self-identification. If they -- a person self-identifies -- and I think that we've discussed the problems with self-identification -- they will testify that the person obviously is a gang member because he self-ID'd.

They also will, then, testify that even if a person denies that they're a gang member, that this is a new trend to deny gang membership so that they don't get the gang enhancement. So, either way, if an individual is stopped and questioned by police, they lose all the way around. If they -- because even if they deny it, they're still perceived by the police, still taking all of the information as gang members.

And I'll just give you an example of that. There was a -year-old who was charged with a robbery, who had never been field-identified, who had never had any sort of police contact before; but they alleged a gang enhancement allegation. And the reason the police officer testified that this person was part of a gang and part of a criminal street gang was because his older brother and his older cousin were members. Therefore, by him having some sort of family relationship, he was then part of this gang, even though he had never done anything to affirm it.

He didn't have any sort of tattoos; he didn't have a moniker; he didn't have anything else that would normally and traditionally be used in terms of identifying somebody as a gang member.

Another problem that I see in terms of police testifying as experts in this particular gang area is that they have a bias. They are the ones that are collecting this information; they are the ones that are stopping the people; and they are the ones that are also

stopping the people based on these racial stereotypes: all Latinos must be gang members if they have shaved heads and they're wearing big, baggy clothes; all African Americans must belong to either the bloods or the crips; and the Asian gangs, you know, if they're in a coffeehouse and if they're congregating, then they must be participating in some sort of criminal activity.

Beyond challenging the enhancement, we also have to -- even if there's not a gang enhancement allegation when a crime is filed, when they're in juvenile court, we have a probation report. And so, if they indicate on the probation report that they have any sort of associates or know of anybody, we also then have to focus on that, because that will then change the way that their case is dealt with entirely.

And so, I wanted to move into that. For youth of color in Orange County, most likely, they will be on gang terms. And "gang terms" -- I just wanted to go over that with you -- is basically, you'd be on search and seizure; you can have no association with any associates or known gang members; you can't wear particular gang-style clothing; and you have an 8:00 p.m. curfew.

These particular probation terms are much more severe than if somebody else had them. And even if we look at, say, for instance, trespassing. We have a white kid trespassing, and then we have a Latino or an Asian kid trespassing. If the probation officer speaks to both groups and forms the opinion that the Latino or the Asian is involved in a gang through association, neighborhood, et cetera, and makes that -- that recommendation, which they always do, this particular individual will get the gang terms. The white individual will not, even though their fact scenarios are very, very similar.

In addition to that, basically, once you're in a system in probation as a gang member, regardless of whether probation is relieved from supervision, those gang terms remain in effect; and they will remain in effect until you're 21.

Another problem in terms of gang terms and in terms of probation writing this report, making these recommendations to the court to impose these terms, is a lot of times we do have so many wanna-be's; and when they're talking to probation, and when they're talking to the police, they basically spout off, "yes, I'm a part of this." Or, "yes, I'm a part of that."

We had one particular individual who indicated that he was a member of a gang, self-identified; and when asked, and how many members are in this gang, and what's the name of that gang, he indicate -- he gave the name of the gang. He said, "there's one member. I'm it. I'm the president." That's problematic; and probation still, because he had these views in regards to gangs, recommended gangs terms, which were imposed even though in order to be a member of a gang, there has to be three members.

Besides probation consequences, there's the problems with the gang database. We've discussed the accuracy; how can somebody be removed. And I look at it in both aspects: in terms of the criminal arena, it's very difficult to challenge that because we have the expert testimony of the police; but outside the criminal arena, what recourse do the individuals that are identified have because of the mis-identification that goes on all the time.

When we get field interview cards in court, normally we get about three or four of them on an individual, if we have them at all. And if you look at them at different times that they've been stopped, the person will give a different moniker, a different nickname, maybe a different date of birth, and maybe even a different gang. That is not unusual.

So, then, how do you tie this particular person to a particular gang when he's saying all sorts of different people: f-troop, th street, fifth street, whatever. You know, their information that they're providing is unreliable.

And I just wanted to go back in terms of the consequences of this –

DR. HERNANDEZ: Will you, please, just maybe summarize because we're running short on time.

MS. VERASTEGUI: Yes. I apologize, and I will do so, basically, with this last example.

What we have are two individuals in a car, driving; they are pulled over for a -- not having a front license plate. Police officers detain and get consent to search the car, and a gun is found in the car. One defendant admits gang membership; the other one denies it, but because he knows this individual, both of them are, then, charged with this particular gun. And both of them now have gang enhancement allegations, even though the person denied any sort of membership. It has all sorts of ramifications and problems in terms of dealing with these cases.

In terms of 707 hearings, which is to determine whether or not a minor is fit to be tried as an adult or a minor, if a person is an aider and abettor and doesn't have any sort of gang ties but has associates or affiliates, that -- it will be very hard-pressed to keep that person in juvenile court as a minor. That person will most likely be tried as an adult.

And I apologize for taking so long, and I thank you for your patience.

DR. HERNANDEZ: Okay. I have some members that want to ask questions. I'll start with Luz Buitrago, to my right.

MS. BUITRAGO: The chair admonished us this morning not to make statements, but I have to make one statement. On the way to the airport this morning --

DR. HERNANDEZ: Use the microphone.

MS. BUITRAGO: I just have to make one statement before I ask my question, and that is that on the way to the airport this morning, I was listening to NPR, [phonetic]; and it was a youth radio presentation by a young Hayward kid who was talking, actually, to other young people -- trying to talk to other young people about the problem of how it is so trendy and so common nowadays for kids to be wanna-be's and to actually say, "I'm a gang member," for different reasons. Not just because they need to protect themselves, but because that's become the trendy thing to do.

So, I do have concerns about the admissions criteria being used as one of the criteria for labeling a gang.

We need to take into account what's happening in our society, and That's part of it.

The question that I have is for Mr. Conley, and that is: I'm wondering whether anyone in your office, or any other bodies that are part of the great system, have done any kind of evaluation to look at why it is that 64 percent of Hispanics and 8.5 of Asians are part of that great system in the county. Looking at the numbers that you've given regarding other parts of the state, again, the same comes to issue. 100 percent African Americans in Richmond.

My concern is the overwhelming percent of minority kids; and I'm just wondering whether anyone has done a study to try to explain why those numbers come out the way that they do.

MR. CONLEY: Well, if you ask me as a member of law enforcement, I don't find the numbers to be off in terms of Orange County. I gave you the statistic that, of the cases we have filed -- that is the cases that the police have solved -- 63.5 percent were Hispanic. In the Orange County great system, it's 72.9 percent Hispanic. So, the Hispanic gang problem is the serious gang problem in Orange County. Of course, any gang problem is serious.

So, I don't look at those numbers as showing an over-representation, or what have you, of Hispanics, let's say. And when I look at the Orange County figures -- I wasn't prepared to defend the state from Hayward down as I arrived this morning, but those numbers, it's -- let's lay the cards on the table. It's a problem. Gangs are a problem. Mainly in terms of Orange County -- very different in other parts of the state -- of Hispanic and Asian. White and black are relatively small, though they're serious still.

So, do you think those two figures are far off? I don't.

MS. BUITRAGO: Actually, I do; because if you look at the percentage of the whites, it's very small. And I guess the concern I have is that I think a study should be done.

There should be an evaluation of why it is that those numbers turn out to be that way; and I think that the answer might be that there might be that there might be a solution; and I don't know if any of the other members of the panel might be able to respond.

MR. CREW: Quickly, I think part of the problem is that the system becomes self-fulfilling. One of the criteria has to do with where someone resides; and if you reside in an area that had -- has been labeled a gang area, you are much more likely, then, to be also labeled a gang member and be counted in these sorts of situations.

So, the exact same incident, the exact same crime, the exact same behavior by a white kid in a non-gang area -- and in fact, worse behavior. You can be arrested for tagging -- you know, for putting gang graffiti up in a non-gang area, you will not be labeled a gang member; but if you are unlucky enough to live in an area that law enforcement has designated as a gang area, and those gang areas -- I mean, I would ask a question: how many white areas in Orange County have been designated gang areas? That's part of the answer to the number. If you happen to be in those -- if you're targeting communities of color, naturally the result is going to be overwhelmingly people of color trapped in this system.

DR. MAYER: I'm Dr. Frank Mayer. Because of a commitment this afternoon, I'm not going to be able to attend the afternoon session. I'm sorry for that, because I've gained a lot; and my first response is to thank all of you people for enriching my understanding of the gang situation.

My question is to Mr. Conley: Mr. Conley, if I was to come in late and just listen to the four people to your right -- I wrote down some of the adjectives that they used to describe the anti-gang program here in Orange County. It's, basically, a rogue-elephant system, disorganized, one that lacks standards, deals only -- basically in racial stereotypes, is biased, is an unaccountable system, and preys on -year-olds.

It's -- basically, the bottom line, it's destructive to due process. Is it or isn't it?

MR. CONLEY: No, it isn't; and why do you have this discrepancy between me and the four other panelists? We have three members of the ACLU and a public defender, and you expect to find unanimity? I don't think you're going to have it here.

DR. MAYER: No, I'm not. I'm just picking up on what they're describing of the system you're running; and I'm just asking you: are they on the money or aren't they?

MR. CONLEY: Well, first of all, I think most of them, with exception to the public defender, are not too familiar with Orange County. We've heard stories from as far -- was Hayward the farthest?

MR. CREW: Tule Lake, actually.

MR. CONLEY: Tule lake. I can't comment on the safeguards, for example, of great in other counties. I know the written safeguards on great in Orange County, and this criteria. I know we purge every five years. It's unfair to ask me to defend the state.

DR. MAYER: I'm not asking you to –

MR. CONLEY: There are written criteria in this county, for example. When I look at some of this, I find with due respect, the public defender is disagreeing about California law; that police can testify as experts. Well, that's the law; and if the public defender feels that California law -- because you're taking a federal perspective -- is unfair, they can go on a federal writ of habeas corpus and conclude to that.

When the public defender claims that there's insufficient evidence that a -year-old is a gang member, a judge or a jury has to determine that. It's not a police determination before penalties are put in.

I think we're kind of saying, can police make mistakes? Absolutely. I'm not going to say police are perfect. We're all making mistakes; but is the system corrupt, or is it racist because we have filed against 63.5 percent Hispanic? I don't believe so. It's an Hispanic gang problem in Orange County.

So, a lot of what's said may have some application elsewhere. I can't comment on that, but it doesn't ring true from my experience here.

MS. FUA: My question is also to Mr. Conley. Are there standardized criteria for entry into the great system? Because what I hear the four members of the panel saying is there are no standardized criteria. What I heard you say is there is a good system for safeguarding who gets in; and I think that's the issue here: who gets in and how they get out; who's monitoring it. What can you tell me about that?

MR. CONLEY: You have to listen carefully to the lawyers. They said there was no standardized, statewide criteria. They Said there's no standard statewide audit.

These are nodes, and all I can talk about is the Orange County node. There is five different written criteria for gang member submission.

MS. FUA: But don't you find it troubling that there is no statewide criteria; that one of your fellow -- you know, from Berkeley or wherever -- can have criteria that is totally wrong, something you would disagree with; and yet, they are made part of the system, and kept there, identified as a gang member? Isn't that problematic?

MR. CONLEY: Hypothetically -- this afternoon, you're going to have an expert on great talk, Loren Duchesne from our office. I have not looked at, for example -- I'm a prosecutor, but I basically, haven't looked at the criteria that the Bay Area uses or Los

Angeles; but I feel comfortable with the ones we have. And as I mentioned, 80 percent in terms of the Orange County database, have admitted it.

And I respectfully disagree, despite npr, that people casually go around admitting gang membership. First of all, you don't admit gang membership in a gang area unless you are. It's like saying, "I'm an ex-marine," when you're not. That can get you in deep trouble. No one claims to be del-hi, [phonetic], when they're not del-hi. I'm not saying casually someone might; but when officer smith comes up with guns and boots, are people casually saying that they're a member of a gang?

That doesn't ring true with me. I'm sorry.

DR. HERNANDEZ: Dr. Erler?

DR. ERLER: Yes. Mr. Conley -- but I have questions for others, so we're not just picking on you.

Do you have any sense of what percentage of all violent crime in Orange County is gang-related?

MR. CONLEY: I can't answer that by specifics. I can talk about murder, for example. Let me get the statistic for you. Roughly half the murders in Orange County are gang-related. State-wide -- I was just looking at the state-wide statistics from '95. Thirty-six percent of state-wide, in California, of murders were gang-related.

So, it's a significant problem; but giving an overall figure for violent crime, I can't do that.

DR. ERLER: In your opinion, how effective is the great system in Orange County for solving crimes?

MR. CONLEY: It's very effective. And, you know, I was thinking as I was hearing the comments, we could design a great system where you only put in people after they've been convicted; and then I think that the ACLU would be satisfied, but again, we have to balance our rights of freedom versus security.

And if you give me time, I'll read you that great language from the California superior court.

DR. ERLER: Could I add something?

DR. HERNANDEZ: Go ahead. One more question.

DR. ERLER: Well, I have questions for others, too.

DR. HERNANDEZ: Okay.

DR. ERLER: I have one more question -- or two more questions for Mr. Conley, and that is: you said that in the Orange County database, 80 percent were admitted gang members. How do you know that?

MR. CONLEY: We had our computer rundown just recently.

DR. ERLER: So, in other words, if it's 80 percent, then there's a pretty close fit between those that were in the database and who were actually active participants in gangs?

MR. CONLEY: That's my opinion, and that's the opinion of law enforcement.

DR. ERLER: The other question is, you say that in Orange County there were 382 identified gangs. Do you believe that all of those gangs are associations for criminal purposes?

MR. CONLEY: They're supposed to be before they're in there, and gangs come and go. We can't say that that number is active at the moment; but they're identified, and in a five-year period, they have not been purged.

DR. ERLER: So, there's --

MR. CONLEY: There's a lot more fluidity in the gangs than some people realize.

DR. ERLER: So that one of the definitions of "gang" here is that they're organized to pursue criminal activity?

MR. CONLEY: Right. There's no boy scout troops in there, that I know of.

DR. ERLER: Now, this leads me to mr. Crew. You mentioned several issues of civil rights. I'd ask you, if you could, be more specific. I think you mentioned, for example, associational rights; but presumably, you don't argue that there's an associational right to be a member of a group that's organized for criminal purposes, either. I presume that there's no associational rights involved in that. You also mentioned fourth amendment rights.

Is it your contention that the photographing itself is an illegal search and seizure?

MR. CREW: Several issues there. First, let me just briefly comment, when we talk about state-wide criteria, that the problem is it's a state-wide system. Orange County is not only relying on their data, they're relying -- they have access to data from other databases. It may be used in totally different criteria. That's the nook.

With respect to your question about the photographing issue, photographing in a detention circumstance, if there is reasonable suspicion to believe that individual that you've detained may be involved in crime, then you have legal cause to detain that individual. If identification is part of what you need to determine to resolve that suspicion, then in some circumstances, the photograph is appropriate on a non-consensual basis.

However, once you investigate that crime and you have resolved that suspicion, there is no underlying investigative purpose for that photograph. Once you determine that that individual that you initially suspected is, in fact, not guilty -- you may have convicted somebody else -- that photograph, even if it was lawfully obtained, should not go in that database and sit there for five years. That is where we have concern, and we have negotiated in Northern California policies with law enforcement agencies that are consistent with that concept.

So, the fourth amendment concern exists if they are detaining individuals without cause, if they are photographing individuals in a detention context. Certainly, Mr. Conley's right. There is no expectation of privacy just when you're in public; but when law enforcement takes a picture for the purpose of putting it in a database -- pictures taken from a passing vehicle, they can't use. They need to put a name with that individual that they photographed, and that's where the detention comes in; and that's why we think the garden grove settlement makes sense. If you think it's consensual -- if you really believe it's consensual, why not put it in writing. What's the harm to that?

DR. ERLER: But are these photographs being used as evidence of criminality? In other words, where's the illegal search and seizure?

MR. CREW: Well, the illegal seizure is if you're detaining people without cause or consent --

DR. ERLER: I presume that's not happening --

MR. CREW: We are not sure of that presumption. Based on our experience, unfortunately it's happening to a great deal and it is --

DR. ERLER: Is it your contention that police in Orange County, generally, are detaining people or stopping people simply because they look like gang members or things of that character?

MR. CREW: Sir, I --

DR. ERLER: These photographs are not being taken incidental to valid stops --

MR. CREW: Sir, I'm here because we are concerned about what the state-wide impact -- and I would be lying if I tried to pretend I knew exactly what was going on in Orange

County. I do know in Northern California, it is very common. I know you have other witnesses lined up this afternoon that could better answer that question.

DR. HERNANDEZ: Can I ask a question of Mr. Conley. If I get a credit check -- I'm in a database and I get a credit check, and I disagreed with that credit check, I have a right to call that database company and issue a disagreement. That disagreement's entered into the database.

If I'm a parent, and my child is stopped; and my child comes home and tells me, "dad, I got stopped by a police officer. They filled out a card on me, and they took my picture." Can I call the police department and say, "what happened to my child? I don't want my child in that database. I want him taken out of that database?"

What recourse do I have; and if I know my child's not a gang member; he's never been affiliated with a gang in his life; I have no reason to believe that he's -- he doesn't show any weird behavior, can I go to your office and ask you to take my son out of that database?

MR. CONLEY: To be honest with you, I can't answer your question. I would suggest you ask Loren Duchesne this afternoon.

It's handled on a department basis, rather than going through the D.A.'s office.

DR. HERNANDEZ: That's one of the reasons why I'm concerned, because I didn't realize -- one of the things I think it's raised a flag in my mind is that these enhancements, there really is a difference.

If you're in that gang database, that could be used as evidence against you that you are in a gang; is that correct?

MR. CONLEY: No, that's not correct.

DR. HERNANDEZ: That's not correct?

MR. CONLEY: The database is, basically, a pointer system; and it's designed -- someone asked about the utility. Someone will say the guy in the drive-by shooting is "Perlon" from eighth street; and the idea is to go to that database and run it and see if you can figure who is Perlon from eighth street, that kind of thing. Or it's a guy named Jose, who drives a white Malibu. You can, hopefully, go to the gang database; and if you're lucky -- it doesn't always work out -- you can find, in that particular gang, a guy by the name of Jose who drives a white Malibu; and that starts you in the right direction.

You can't use that directly as evidence. You need an officer, as the public defender was saying, to come in and say, "I'm an expert on gangs. I found this and this. In my opinion, this is a gang member we caught; and then, a judge or a jury has to agree with that.

DR. HERNANDEZ: Socorro?

MS. OLSEN: I just wanted to find out, having lived in Orange County myself for years, just recently moved out of it, actually, specific reasons having to do with gangs, when my son was held at gunpoint --

DR. HERNANDEZ: Could you use the microphone.

MS. OLSEN: Oh, I was in the Santa Ana school district area. So, I know what it's like to be on the victim side of it; and it really was a traumatic experience for my son, who's now .

But my question actually is, I want to know, specifically, from Orange County -- directing Mr. Conley, is: specifically, what is the criteria being utilized to identify the suspects by the officers that are approaching them for these field cards and the photography that's being taken? What specifically? Do they have something in mind when they approach them, what they're going to ask them?

MR. CONLEY: No. I think, and we're both in agreement actually on what the law is, that they have the right to go up and detain if they have some reasonable suspicion of criminal activity. And that's what the officers are told.

It's not, like, you -- here are ten things you might find, and you must find six of those before you can do it. It's kind of on a case-by-case basis, and that's California and federal law.

It's basically the right to detain is not -- it's something less than the right to arrest, but it has to be a reasonable suspicion, based on concrete evidence that there may be a crime involved: the person meets the description, the officer's seen a roach being passed. Someone used that as an example. Well, that's a crime. The officer would have the right to go up and talk to the people. I know I'm being vague --

MS. BUITRAGO: Excuse me, but you mentioned the five criteria that Orange County uses.

MR. CONLEY: Okay. That's on great --

MS. BUITRAGO: On great, right. No, no, no --

MS. OLSEN: Very specific policies from Orange County.

MR. CONLEY: Right.

MS. BUITRAGO: Can you just tell us quickly what the five criteria are?

MR. CONLEY: Yes, I have them; but I prefer you ask the technical questions to the person coming this afternoon.

MS. BUITRAGO: Oh, well --

MR. CONLEY: There are five criteria: individual admits, reliable informant -- that's someone with a track record in the past of giving reliable information -- identifies the person as a gang member, an informant who has not been previously tested identifies the person and it's corroborated by independent evidence; and then, there's a -- one, it takes a long time to read.

When the individual resides in or frequents --you won't have time to take it all down. Resides in or frequents a particular gang's area, effects their style of dress, use of hand signs, symbols or tattoos, or maintains an ongoing relationship with known gang members; and where the law enforcement officer documents reasonable suspicion that the individual is involved in gang-related criminal activity or enterprise. And then, finally, where the individual has been arrested in the company of identified gang members for offenses which are consistent with usual gang activity. Those are the written criteria.

MR. PARACHINI: Can I add just one thing to that, and that is when we have tried to find out what the standardization level of criteria state-wide is, one of the disturbing things we've learned is that, for example, there was this attorney general opinion, which is in the materials we've already given you, dated April 20th, 1994; that told law enforcement around the state that they ought not to be so loose about using the term "gang associate," to put someone in great.

The problem is that there is -- because there is no oversight at the state-wide level -- I don't know when these criteria were finalized for Orange County. Our concern is that there are many, possibly tens of thousands, of people in this network of little databases around the state maintained by individual police departments, who were entered there prior to the time when the attorney general ruled, "you can't do that, be so loose about gang associates"; and there probably still are, even though we've heard vague assertions from the people we've talked to in the last couple weeks that there's a lot of purging going on in the system. I asked, "how much purging?" He said, "I don't know, but it's a lot," particularly in the L.A. county sheriffs' department. We have no idea how many people are still in these databases, who got there because of standards much looser than this or that; and I'm not sure I would be comfortable with that either.

MR. TOMA: Let me just say what the criteria was up until, I believe, 1993, at least in the city of garden grove, and probably for much of the state; and there was a c-6 criteria. What was read was the first five criteria. There was a sixth criteria that said, "when there are strong indications that an individual has a close relationship with a gang, but does not fit the above criteria, he shall be identified as gang associate."

That catchall was there up until quite recently; and actually specifically put in the settlement agreement that has to be removed, and they have to be instructed -- officers have to be trained that this is no longer sufficient criteria for "gang associate."

Now that is, now, also eliminated from the Orange County criteria; but we don't know how many of those individuals who are classified under that criteria prior to 1993, and how many are currently being classified under criteria that might exist outside of this county are part of this system and continue to be considered or treated as gang associates with all the consequences that have been talked about in terms of sentencing, et cetera.

DR. HERNANDEZ: Ms. Fua?

MS. FUA: Mr. Conley, earlier you indicated that the ACLU would probably be happy only if the data consisted of convicted gang members.

My question to you is: do you know what percentage of the people that are in the Orange County system -- great system have ever been arrested?

MR. CONLEY: You might try that question on mr. Duchesne this afternoon. I don't have anything that I was given that answers that.

MS. FUA: Okay. I'll try him then.

MR. CONLEY: Okay.

MR. CREW: Can I just briefly -- the ACLU's position is not that law enforcement can only keep records of convicted criminals; but what we have here are individuals, even under the Orange County criteria, read to you, where there's no criminal predicate that punishes mere membership.

This goes back to the gentleman's question. Under the definition of a gang, under Orange County's criteria, it suggests a gang is a group whose members, either individually or collectively, engage in a pattern of criminal activities. That gets back to the illustration that I made earlier. It's not just that -- this is not the -- limited to gangs, where the purpose of the association is criminal activity. This, if it was applied unilaterally -- I'm sorry, across the board equally, would apply to associations whose only some members are engaged in crime.

If you have a small fraction of a police department that is criminally corrupt; under this definition, if you are a member of this police department, you would be part of that gang. And that's where the problem is. There is no underlying criminal predicate --

DR. MAYER: It would be hard to say that the police department is organized in criminal activity.

MR. CREW: But the definition doesn't require that. That is our concern. That is our concern, sir, is that the definition that they are using does not require that the association exists for a purpose of criminality.

The definition requires only that some individuals in an association -- so, if there are members of the bar association, which I'm a member -- they're engaged in crime. Therefore, I'm a suspect because I'm a member of that association. And that, sir, I would submit is guilt by association and inappropriate and ultimately destructive and ineffective.

DR. MAYER: So, this is your associational rights argument earlier?

MR. CREW: Absolutely.

DR. MAYER: And I would just ask the panel generally, and perhaps Miss Verastegui, because you touched on this too, what rights are we precisely talking about here? We've got unreasonable search and seizure has been mentioned, due process right, right to privacy, associational rights.

I'd like a little more precise definition of what's at stake here. What are we confronting? What issues should we be looking at here?

MS. VERASTEGUI: well, basically -- I mean, let me just give this example: there are two police officers in Santa Ana that are in the gang book that have not been removed, and I think that they would find that offensive.

I think that anybody who is labeled as a gang member -- and I've talked to numerous clients and parents of clients who deny membership, and they are offended by being labeled as gang members.

DR. MAYER: Now, being offended, I don't believe, is a Constitutional right.

MS. VERASTEGUI: Agreed.

DR. MAYER: Is this part of the right to privacy; is it --

MS. VERASTEGUI: Agreed.

DR. MAYER: -- due process rights?

MS. VERASTEGUI: Well, my whole argument in terms of whether or not this is Constitutional -- Mr. Conley's right, police have to have reasonable suspicion to stop and detain people; but normal practice in every day real world, what we have are police officers who do what's considered consensual encounters.

Basically, they say, "hello, could I speak to you," and start gathering this information.

What the police officer says is a consensual encounter and completely valid under the law, what a lot of time my clients and I would argue is not. They feel coerced; they feel roused; they feel as if they have no alternative, but to basically submit to the color of authority of the police officers.

They are not seen as, per se, part of the community, but as enemies of the community. And that's where I would argue that that encounter is not consensual. Therefore, it falls under whether or not there's reasonable suspicion and no criminal activity suspected; and so, that whole encounter that is held by it.

DR. MAYER: I might agree with you, but where's the illegality or the unconstitutionality, if it's a consensual statement --

MS. BUITRAGO: I can answer. Actually, let me just -- I think there's been a mention of the first amendment, the fourth amendment; but one of the things that this committee has to look at is the th amendment, and that is really in my mind, actually, a civil libertarian, and there's a right of association and all these issues; but I come to this commission looking at the th amendment, because that is what we're supposed to be looking at, the desperate impact on minority children. So, I think that's where the potential allegation is --

MS. VERASTEGUI: And I --

MS. BUITRAGO: And this is a factfinding hearing to find out what's going on and what can be done about it.

MS. VERASTEGUI: I would also like to comment on the desperate impact of those clients. The majority of them, if not 99 percent of them, are youth of color. And so, I want to make that very clear.

And I've also dealt with skinhead gangs, dealing with white; but they're treated very differently, in terms of their resolution of their case. Say, for instance, a Latino would get gang terms and jail time for a particular offense, a skinhead would get volunteer community service and no gang terms.

MR. CONLEY: I have to have a shot at that one. I just so totally disagree with that, and I don't know what planet you're on. I'm sorry. Skinhead gangs are treated just as difficulty and roughly as anyone else in terms of the legal system, probably more.

We have a situation -- you know, this reminds me of the debate about discrimination on crack. Remember, the statistics from Los Angeles were that nearly everyone being accused of the crack in the federal courts was black. Of course, you know the reason is because crack is very popular in the black community.

That went to the U.S. Supreme Court under the claim that this shows per-se discrimination, because 90 percent -- I forget what the figure was, but it's in the 90th percentile of all people prosecuted for crack were black; and the supreme court kicks it back and says, "that doesn't prove discrimination."

And simply because we have 60 percent Hispanics charged with gang -- gang crimes in Orange County and 73 percent in the database, I hope that doesn't show discrimination. It simply shows a significant problem in the Hispanic community with gang crimes. Many of the victims of those people are Hispanic.

MR. CREW: If I could just briefly, on the equal protection issue, it's not just the numbers. The numbers are overwhelming, but we have a situation here. Under the explicit policies in operation in Orange County, you are treated differently based on where you reside. That is explicit. That's not a statistical issue, okay. That is a very compelling equal-protection issue.

If someone who happens to live in a so-called gang area -- and I've asked the question before and have not heard -- how many of the gang areas in Orange County have been identified in predominantly white neighborhoods, and I haven't heard the answer. And if the only -- or the overwhelming percent of areas where residentially you are punished more or subject to this, that is an equal-protection issue as well that ought to be of concern for this commission.

There are several other legal issues. In the interest of time, we can chat later. We can submit it later.

DR. HERNANDEZ: I have a question of Mr. Parachini. I was kind of interested in your study of the effects of injunctions on the crime in surrounding neighborhoods.

What do you -- did you explore the reasons why the injunctions are ineffective, at least in the area that you studied; and do you think that the same thing might apply if you did a study in Orange County? Is this a phenomenal thing that you think just exists in L.A. county or something that you think might be generalizable to other areas?

MR. PARACHINI: My suspicion would be that you would find, more or less, the same phenomenon anywhere you have a gang injunction.

The reason that we were able to do the study we did -- there are several reasons:

One is, we chose Blythe Street both because it was so well known and because it occurred four years ago. That gave us what we thought was a window of time, after the injunction, to look statistically at what happened to the variables that we wanted to examine. That has not been the case in any of the other injunctions. The only other injunction that would possibly have fit this time criteria would be the playboy gangster crips case, which was 1987. We thought that was a little stale.

The Westminster injunction never actually went into effect; or if it was in effect, was only in effect for a brief period of time. So, that's not something that we could look at.

The other ones are much more current than that. The one that's being litigated right now, 18th street in Los Angeles, that ruling has not even come down from the court, though it's expected to do so very shortly.

I think, based on what I know about the Acuna case in San Jose, where one of the people involved in that injunction was there by mistake, I think you would probably find precisely the same effect that you saw in Blythe Street. That's -- that is speculative, and it's nothing more than that because we didn't study any of the other injunctions.

It was possible to do what we did in Blythe Street because of the structure of the Los Angeles police department; and because the L.A.P.D., as many shots as we take at them, does have a reasonably competent statistics and data-gathering capability. And we had some confidence that if we asked them to break down by minute parts of neighborhoods, which they're capable of doing, that -- the figures we were looking for, they could do it and we could rely on what they gave us, and we did that.

Now, as to what do I think is behind the increases that we saw; I think I can explain the neighborhood Panorama City-wide phenomenon of crime going up, and I think I can explain why it jumped up in the Roscoe Boulevard strip of four reporting districts just north of Blythe Street.

My explanation is that we had been concerned when -- the first time we heard about injunctions, that one of the things that would happen -- particularly since drug crime relates to and results from commerce in drugs -- its retail sales of a commodity to consumers on the streets. And if I'm in the business of selling a product at the retail level, and somebody does something to me that makes it much more difficult for me to sell that product where I have my store now, and I -- my inclination probably is I'm going to move my store. And if I move my store, I may come into a territory where some other retailer is selling the same product, has identified his territory, her territory.

So, I think that some of this can be explained in nearby neighborhoods by the fact that you would have a natural tendency that people interested in engaging in criminal

activity, moving elsewhere to do it as a result of clamp down in a neighborhood that you had been accustomed to operating in. I cannot explain why what we saw in the Blythe Street neighborhood, itself, happened.

We still think that on Blythe Street itself, which is a two-block street that runs west from Van Nuys boulevard, we still think -- no matter what our report said -- that Blythe Street itself quieted down and remains quiet to this day. We did look at the distribution of violent crimes in that reporting district through all of 1993; and it's clear that what happened was that Blythe Street probably was never the problem. Comparatively speaking, the real violent crime problem in that small part of Panorama City was a corridor formed by Van Nuys boulevard, a very busy commercial street with lots and lots of businesses on it.

And so, I think what may have happened, though I have to say I am puzzled by what happened in reporting district 925; that I think it may be that so much attention was focused on a very small part of that district, that what happened was the focus was lost that should have been there; that the -- what was at stake, and is at stake, in Blythe Street and Panorama City is the peace, stability, and safety of the entire community, not just one two-block stretch of one street.

And I think we lost site of that in that case, and I fear that we lose site of that every time we focus on a gang-database case; that we say that that is a neighborhood that has some special problem that has to be specially protected. We think, in good faith, that we're doing that. All we do is we're pushing on the balloon and bubbles pop up everywhere else.

MR. CREW: I just wanted to -- briefly, on the injunction issue, because I've seen it mis-reported; and it's been somewhat -- I don't think intentionally -- mischaracterized here. To quote Yogi Berra on the gang-injunction issues, "it ain't over till it's over."

The California Supreme Court ruled -- this is our case, the ACLU of Northern California. Within the last month, we have filed our cert petition with the U.S. Supreme Court. We are confident they will take this case, and were are confident that this disastrous opinion that Mr. Conley quoted accurately from will be overturned. That issue is not over. The federal courts have not yet ruled on the legality and Constitutionality of those issues.

DR. HERNANDEZ: I'd like to --

MR. CONLEY: With respect to Westminster --

DR. HERNANDEZ: Please.

MR. CONLEY: -- I think you -- chief cook will be here this afternoon. I think you will feel it was effective in the short period of time it was in effect.

DR. HERNANDEZ: Well, I'd like to thank the panel for all of the information that you provided the committee.

I'd like to call the advisory committee in to recess until 1:00 o'clock.

Thank you very much.

(a lunch recess was taken, :12:10 p.m.)

(back on the record, 1: p.m.)

DR. HERNANDEZ: Good afternoon. I'd like to call this afternoon's session to order. Just so that people in the audience can acquaint themselves with the members of the panel, I'd like to just ask each panel member to identify themselves, once again, please.

DR. ERLER: Edward Erler.

MS. BUITRAGO: Luz Buitrago.

DR. HERNANDEZ: Fernando Hernandez. I'm the chair.

MS. OLSEN: And Socorro Olsen.

DR. HERNANDEZ: The next panel, panel two, is the community organization panel; and for the record, I would like every member of the panel, if they could, starting on my left, to identify themselves for the record, please.

MR. LOPEZ: I'm Dr. Mark R. Lopez from school watch/sentry.

MR. MENDOZA: My name is Robert G. Mendoza. I'm an attorney in Huntington Beach.

MR. MASSEY: I'm Clarence Massey, and I head up the legal redress committee, the Orange County NAACP.

MS. CASTRO: Jessica Castro, chairperson for United Neighbors.

MS. INOUIYE: My name is Nicole Inouye, and I'm the chair of the UC Irvine students.

MR. TSANG: I'm Dan Tsang, and I'm the co-founder of Alliance.

DR. HERNANDEZ: We had someone else join us.

MS. WILLIAMS: I'm Ann Marie Williams, legal redress committee, NAACP.

DR. HERNANDEZ: And we also had one member of the advisory committee just join us now. Would you, please, identify yourself.

MS. FUA: Rose Boon Fua.

DR. HERNANDEZ: For the record, let me begin with -- we'll go in the order that we have it on the agenda, and what we are going to do is give each member of the panel somewhere around seven to ten minutes.

Now, we're going to try and do -- and I know because so many people are on the panel, I'd just like to ask each member of the panel to be as succinct as possible, so that the committee might have some time to ask questions. So, if you could just kind of give us a very succinct statement, and we can explore some of the issues you brought up in further questioning.

Jessica Castro, chairperson of United Neighborhoods, would you please begin.

MS. CASTRO: Good afternoon. We are here as a community coming forward to stand against the mentality that it's okay for police officers that are sworn to uphold the law to violate the civil rights, discriminate, abuse, and use excessive force. Our community, our youth, our children are being held under a siege of fear by valid persons that are entrusted to safeguard and protect us.

When an officer of the law feels he is above the law and enters a home without a search warrant, not in pursuit of a suspect but simply because he felt like it; when a youth is fearful every time he leaves his home because of the very real probability of being detained, questioned, harassed, searched, photographed, and mislabeled as a gang member; when a victim of police abuse is afraid to report the crime because of fear of retaliation, intimidation, and continued abuse; when officers high-five, especially after brutally beating a youth, that is when it is time for all people and every community to stand together and say this behavior will not be tolerated.

The Anaheim Police Department has consistently denied any knowledge of wrongdoing. They have refused to take responsibility for their actions. I present two depositions of two minors, who shall remain nameless. Two sworn depositions; and I'd like to read from one.

"You know, they had, you know, after a -- like, 20 seconds of striking on me, you know, Officer Calley, [phonetic], picked up a blanket, you know, that was on the roof and he -- you know, he had threw it over me like I was dead, you know, saying to me, yeah, you know, I wish you were dead. You know, he told me that I had told him, well, you know, why don't you just kill me. You know what I mean? I told him just like that, why don't you just kill me; and you know, you guys already beat me up, you know, for no

reason. And then, you know, they started -- you know, I had the blanket on like, you know, covered all over my body, you know. They started, you know, to celebrate, giving each other high-fives. 'Yeah, today is our night.' you know, and then, they had took all -- they had took off the blanket. They had took off my shoes, my shiners, you know. I had some imperials, and they had took them off; and he goes, 'I'd been wanting to do this for a long time,' and he just got my shoes and flipped them over on the roof, you know, on the rocks. And he started stepping on them, you know, scratching them."

This is testimony of one youth. This is only an example of the way the police treat the minorities in our communities, and we will not stand for it. Simply because of the way they're dressed, simply because of their color, simply because of the economic situation which confines them to live in certain communities, they are labeled as gang members; they are photographed; they are beaten.

For almost four years, the Anaheim Police Department has had knowledge of those two brutal beatings that are outlined in these depositions. Yet, Anaheim has testified on the witness stand that there was no excessive force. Officer John Calley and Craig Hunter, which are the two officers charged with these beatings, were quoted in the transcript as saying, "I've been waiting to do this for a long time," which shows premeditation.

Under any -- any citizen under the law of a brutal beating as this one, that is outlined in these depositions, would have been criminally charged in the city of Anaheim. Officer hunter has been promoted to internal investigations, and Officer Calley is the head -- or excuse me, the sergeant in charge of the gang detail.

Those are the people that we are to tell our youth that are there to protect and serve. These are the people that we are giving the job of protecting our community, and this is how they are punished for brutality, by being promoted.

On the other hand, we have Officer Steve Nolan, an Anaheim police officer who witnessed these two beatings, came forward, lost his job, and was ostracized by the police department.

As a member of the community, I see that this is completely slanted; that there is no possible means of justifying the behavior of these officers. There is no accountability. There is no reason for them to not conduct themselves in the manner that they have. There is no fear of a higher up, possibly a chief, making them responsible or accountable for their actions. So, the community has come forward to do that.

The community has come forward to call for a citizens' police-community review board, which would take charge of violations like these with subpoena powers and conduct outside investigations. We feel that is the only way the community can have a true voice. We feel that, obviously, the Anaheim Police Department has failed to be accountable, not only in one instance, but in many.

And we only use this one as an example, because of the blatant-ness, (sic); and I thank you for your time.

DR. HERNANDEZ: Thank you very much, Miss Castro.

Mr. Lopez?

MR. LOPEZ: My name is Dr. Mark Lopez from school watch/sentry. School watch/sentry is California's largest children's educational and civil rights foundation, dealing with questions of discipline, special education, and placement k through .

When I was asked to speak on this panel, a number of things went through school watch/sentry. Miss Fouts, who's here today -- all of our questions went to one thing: if, in fact, you ask a community to support the police in any community -- and I should say this as a preparatory statement: my mother and father are 30-year retired L.A.P.D. officers, and my brother and sister are L.A.P.D. officers today.

So, when you ask a community to support the police, you have to ask them to monitor the situation in a community as fairly as it can; but also, if in fact there are police abuses, the police should, in fact, come forward truthfully and say, "we might have made a mistake at some point in time." And we believe that community policing and target groups and police on campus that we have as a community will solve those problems. That is the rationale.

As reasonable people in school watch/sentry, we have dealt with 450 cases throughout California -- not located in just Orange County, but throughout California. In the packet I gave to you today, we picked three of those cases. In outlining those three cases, we picked them for a number of reasons: one, specifically, because of the community-police relations that the discussion is about today; but also, the element of gangs.

In the first case, three young Hispanic men came to the defense of a Lebanese young man who was being assaulted at Capistrano Valley High School. They did what anybody in our community would do. Yes, they used profanity. Did they step in his shoes and say, "you cannot do this to him. You don't know the whole facts"? They did that.

When you look at the report of the offense, these students were charged with attempting to cause physical harm to district employees, Section 48900 of the education code. These students were brought before an administrated law panel, and every one of the cases found the students did not commit the offense.

As anyone is taught in any community, you stand up for your people no matter what they have done; and if there's an injustice, then you must loudly say, "there's an injustice."

What happened to these three young men is a creature that, for Orange County, they really have to look at and deal with; these young men were put in the juvenile justice system and given gang terms. For these young men not to have committed the offense because they were Hispanic. I thoroughly believe that denotes gang activity.

Well, if you have an administrative law panel that says the young men didn't commit the offense, why didn't the school district come forward to speak for them like the young men spoke for another young man? Why didn't the Orange County district attorney's office, who was so bent on putting the gang terms on those young men -- why didn't they look at the packet?

They may say, "you didn't submit that, Dr. Lopez." That is incorrect. We gave them all those facts. The problem you have is the mesh of law enforcement and educational administrators on campuses in California today.

School watch/sentry, and many of the community leaders here, are anti-gang, drug and violence. There is not one person in this audience that isn't for safe schools. Unfortunately, the safe-school problem is now being exacerbated by police officers.

This is case two and three. We have specifically pointed out the Anaheim Union High School District and the gang unit from Anaheim High School, specifically Mike Aquino and Scott McManus as individuals who have no regard for children's rights on campus.

February 28th, there was an incident that happened in the community of Anaheim, where 18 children were taken back to Anaheim High School, interrogated by these officers under the auspices of, "we thought there was gang activity at the house." Why, was there a problem at the house? We will tell you, there was. There was alcohol being consumed, and I believe those officers have the right to take children and make them safe. What came next is abhorrent in educational code sections that are operated under administrative law in the State of California.

Officer Aquino, time after time after time, in case two, that went from April 28th, 1997, to March the 31st of this year, shouted down parents and said, "you have no rights. Shut up. If you say another word, we will arrest you." Well, they did arrest two young men after they testified at an administrative law hearing, that they believed they were testifying to an expulsion-suspension offense. Those two young men are still in juvenile hall right by us, down the way here. That's case two.

In case three, again, the Anaheim Police Department. We have already stated that we are for safe schools, but I need someone to tell the community what gives the police

the right to photograph minors on a public school campus in the State of California when the minor has not been told that they are under investigation for an Education Code Section 48900, experiencing suspension, expulsion, or juvenile justice offenses under the penal code. That is the injustice, if anyone wants to know. Why don't we have to support these police officers when the police officers don't support the law many times.

In the press conference outside, we heard that nobody's above the law and nobody's below the law. The problem is, police officers of the State of California have taken an oath to defend the Constitution of all men, foreign and domestic.

Unfortunately, we've only presented three cases because we were asked to be brief; but the impact of cases, when you take a picture of a young woman on a California campus who's under the age of 18 and say, "I don't care about your rights. We're taking your picture"; that picture and her possessions were passed on to another police department. This is an illegal search. They violated her fourth, fifth, sixth, and the due process clause under the 14th amendment. Clear violations.

When her mother protested after coming to the scene, she was told by officer Scott McManus, "shut up. I don't have to merandize her. I'm going to take the picture anyway; and if I can't do that, I'm going to arrest her."

Now, many people will say -- and I notice many law enforcement personnel here today, from testifying before the California state legislature about daytime curfew; and I heard many of those comments from these same officers and same district attorneys about how daytime curfew is the magic pill to quell all types of school-age violence.

The problem is, when you look at the Anaheim Police Department correspondence that we gave you, in confidence, officer Scott McManus never said in his report why he came on campus. He says it's a 4 investigation. If that is, in fact, true, and this young woman had no right to leave that office, that is the functional equivalent of custodial interrogation, and she should have been merandized. That did not happen. They used the evidence they found on her, which they believe was hard evidence, to make her a gang associate now.

Now, if we can not even protect our children on campus on public schools, as taxpayers, with people we pay money to, our police officers, what then do you tell the children in K through 3? "don't worry about it. If the policeman wants to take your picture, go ahead and let him?" I say, "no." I refuse, as a parent, to believe that. Our children should be protected at all times. They should respect the police; but in doing that, there has to be a mutual respect.

So, that goes back and forth. One, two, and three cases deal with Hispanic young women, and also Caucasian minors, that police have taken upon themselves to denote as trouble makers and gang members. Two of these people were national honor

society people. Did they make a mistake one day? Yes, they did. Are they gang members? I do not think so; because if, in fact, you take people who go to school and work and say, for one incident because you're dressed a certain way or we put you under a sign that says, "La Jolla," that you're a gang member; everybody here who are people of color, even Caucasian people, standing anywhere, they too are gang members.

Then, I tell you, now, what's a gang member? People who get together, like you are here today, for one purpose; and they're going to call you "gang members," too. That's not the way or society meant for things to be. Our Constitution protects everybody equally; and when it doesn't, there's something wrong with those people that are applying the Constitution. Thank you.

DR. HERNANDEZ: Thank you very much. Mr. Mendoza?

MR. MENDOZA: Ladies and gentlemen of the panel, good afternoon.

My name is Robert Mendoza. I'm an attorney in Huntington Beach who has associated with the United Neighborhoods within the last six months -- or for the past six months, and have attempted to aid them in the problems involving the community and the police, the Anaheim P.D., specifically.

What I want to do is present to you two different subjects: one of them will be the indiscriminate photographing of minors by the Anaheim Police Department, and the other will be, time permitting, the plight of one particular youth by the name of Gary Gradford, who is considered to be on gang terms by the Anaheim P.D.

And I want to do it this way for two reasons: one reason is that, although there are a number of individuals out there, a number of youths, most of them are afraid of retaliation if they cooperate with me or with the organization. The second reason is to give the presentation a kind of a personal approach, which I think those of you who have minors and kids might be able to relate to.

So, the first is regarding the photographing of the juveniles and videotaping by the Anaheim gang detail. The case example I'm using is a youth by the name of Claudio Ceja, C-E-J-A. Claudio's a -year-old residing in Anaheim. He is a sophomore at Loara High School, lived in Anaheim approximately seven or eight years. He's been photographed more than three times, approximately four, by the Anaheim Police Department gang detail.

The described the procedure to me, and I want you to plug into this if you can: the gang detail stops him when he's on the street, and they ask for identification. No cause, no reason. They, then, take his name, but do not tell him why he is being stopped.

Then, in the course of detaining him, when they happen to stop another juvenile in the immediate area, the gang detail orders Claudio to sit down on the ground and not leave or move while the officer summons the other juvenile and detains him. After the officer detains the second juvenile, the officer then returns to Claudio and leads him to a nearby area to have his photograph taken. Again, he's not told why, not given any reason.

The detail -- or the Anaheim Police Department gang detail compels the photograph. I mean, you have a number of officers around him using their color of authority to compel him to have his photograph taken. He's not informed as to why he's being photographed, and a front view photograph is then taken of Claudio. He's returned to the area where he's initially detained by the gang detail, and he is again ordered to remain there until the officers finish photographing the other juveniles they've detained while -- or after they have detained him first. And it is only at this time, and at the officers' discretion or permission, he is allowed to leave.

Now, according to Claudio, one particular sweep of this nature by the gang detail netted four individuals who were detained and photographed without consent. When an attempt to get the names of these individuals -- and I do believe that he knew them, although I think he was kind of reticent to tell me who they were -- he just said, "no. They're just too scared. They fear the gang detail. They're afraid of what might happen 9 to them."

Now, according to Claudio, the photographs, then, are taken, are put in a four-by-four book and kept by the department's gang detail, apparently, indefinitely; and as I stated, there are numerous other examples of Hispanic juveniles who have been subjected to the same procedure, but unlike Claudio -- who I think showed a tremendous amount of courage just talking to me -- they will not come forward because they fear retaliation as appraisal by the department.

With respect to the videotaping, I've been informed that the department has had in its possession, at one point in time, a videotape, okay, which was generated and disseminated to other departments in the Orange County area. The videotape was made without the permission or consent of the individuals who were taped. It is clear that this videotape has been surrounded to various police departments and represented by them to be quite an educational tool.

United Neighborhoods has requested this videotape of a number of officers, and the department denies its existence to a search warrant. However, the address of the home that appeared on the face of the warrant was erroneous. The officers executing the warrant realized the error and that the wrong address had been identified. However, notwithstanding the error, the officers proceeded to conduct a search anyway of the wrong home.

An individual who was present in that home that was served was ordered by one of the officers to undress down to his underwear. The consent of the person or persons who were

Taped and were part of this videotape was not obtained by the police; and it is uncertain, at this time, how many other departments have possession of this tape. As I stated before, the police department denies its existence.

Now, the second part of the presentation involves a youth by the name of Gary Bradford. He's a 20-year-old youth who resides in Anaheim; and when I spoke to him, he seemed a pretty likable young man who impressed me a lot with his candor and intelligence. Unfortunately, however, Gary also bore the jaded expression of a youth forced to mature, I believe, well before his time. You see, Gary is on gang terms; and if he remains on those gang terms, I honestly believe it will be a burden that will affect him negatively for the rest of his life.

His trials begin at age , when he was put on probation for charges of fighting. After this initial trouble, subsequent confrontations with the Anaheim P.D. and gang details, as well as other members of the department, resulted in frequent incidents of detention without cause.

These incidents are typified by the following -- and he told me of so many that I have to generalize, okay, just to keep it short: consistent physical and mental harassment, arrest and detention for, quote, lying to the police -- close quote -- intrusive interrogation by the police, in one instance when he was hospitalized for a stabbing incident where he was the stabbing victim; an arrest where he was beaten, sprayed with pepper spray, handcuffed by the Anaheim P.D. when he was merely present at a barbecue; and that home that he was present at that was being investigated, the police identified him mistakenly as a perpetrator of an offense. Also, there's been continuous surveillance by the Anaheim P.D. and harassment of his family by members of the department.

Now, both Gary and Claudio, the two examples that I've given you here this afternoon, are not going to be able to better themselves if this kind of conduct is allowed to continue. In speaking to both those individuals, I was struck extremely hard by the jaded way they presented their stories. I mean, those two kids have been through a lot, and they do not trust the police; and they have every reason, I believe, not to at this point in their lives.

I believe that both these examples, in the truest sense, are the Anaheim P.D.'s example and perception of what's called a "self-fulfilling prophecy." The Hispanic youth, who ironically, because of the constant harassment of his mere appearance and associations, can only despair and doubt and will some day be reduced to nothing more than tragic figures. They are ill-fated products of the constant and persistent persecution by the harassment of the department's gang detail.

Now, in closing, I want to qualify my comments. I want to qualify them by saying that they are not an indictment of the entire police department. Not every officer employed by the department, I believe, engages in the conduct that I've just described.

Furthermore, I have no doubt that a number of officers in that department comfort themselves with a high degree of professionalism and competency. Those individual officers who did not engage in the conduct that I've described, employ the finest in law enforcement because they have to.

And it's those officers who should not be included or associated with those few that I'm talking about whose actions taint the department's standing in the law enforcement community.

And I appreciate your time. Thank you very much.

DR. HERNANDEZ: Thank you very much. Mr. Massey?

MR. MASSEY: Thank you. First of all, I would like to thank the commission for inviting the NAACP, Orange County branch to this hearing.

One of the things that we encounter each day is a variety of things, not especially centered upon what's been presented today, with our youth. We get a myriad of things that happen. We receive on the average of 5 calls per day regarding discrimination, wrongful termination, these types of things in the county.

Some of the things that I heard this morning, in part this afternoon, we've experienced. One of the things that, in the African American community -- there is no such thing here in Orange County because we're so dispersed that, I guess, maybe that's one of the reasons why we're not confronted with the same things that's happening in the Latino community; but we do, on occasion, and we do have documented evidence of cities in Orange County that actually stop our youth for little or no reason at all.

We do have evidence where this young man attends school and he works in the evening, but he's been stopped just about every other day, and for no reason at all, just because who he is, as being an African American.

They don't normally have to don on any type of gang clothes or any type of things of that sort. I think it's just because of who that person is that they're stopped. They're stopped and asked, why are they in this particular neighborhood. And the funny thing that happened to one young man, he says, "I'm stopped three times a week"; and it gets to be a joke after a while. He's almost made friends with the officer that continues to stop him, and for no reason whatsoever, just to find out why he's in that community. And this concerns us, here, at the NAACP.

That is not the brunt of our problem. One of the things that we have a lot of, as others -- and these involved adults, and it involves discrimination on jobs; because we're getting a lot of the backlash from things that's happened, as you probably know in the news. I think, starting out with the Rodney King incident, we found that our calls had increased 100 percent; and as that sort of tapered off -- and obviously, we've gone through the O.J. Simpson-type of thing; and as a result of that verdict, things continue to -- calls continue to come in; but they're all the same. The things that I've heard this morning, the same thing that involves law enforcement. Just not saying that there was not probable cause; but I think, in several of the case, that we've determined that there was little or no probable cause for detaining the individuals.

But I won't take up a lot of your time here. I really appreciate, and I -- it's a learning thing. One of the things that we would like to do here in Orange County, the Orange County branch -- the president would like the advisory committees to possibly convene, and maybe we can talk about this off-line; that we would like to introduce some of the things that we are contracted here in Orange County; because believe me, you would think that things would be getting better at this time, but it seems like each day, that more and more things are starting to deteriorate as far as race relations are concerned.

One of the goals that I have for my particular committee, as the legal redress committee, we're the people on the front, the coordinators that receive these calls. People have been discriminated against in the various businesses and that sort of thing; they're followed when they go into the stores out here at the south coast mall; and just because of who they are, they're followed by security, and I think that you've heard these things before.

But we would like to address some of these things and also some of the ways that people are treated in the justice system, and I think that there's been documented evidence of what happens there to all people of color, specifically African Americans in that; but I won't -- I feel that, I guess, because there is no neighborhood in Orange County, we just do not -- haven't confronted with the actual so-called gang problem; but yet, still, our youth, they're still being stopped and questioned and harassed at times, and for no reason at all.

But again, I want to thank you for allowing us to speak and to appear, and I'll just pass my time on to someone else. Thanks again.

DR. HERNANDEZ: Miss Williams?

MS. WILLIAMS: Well, my time would be limited as well. As Mr. Massey said, I work under his expert direction for the legal redress committee.

I wanted to say that, in answering our legal mailbox, I'm taking out, daily, approximately 25 to 30 calls from Hispanic minorities as well as Afro-Americans. As he stated earlier, they're not necessarily about the way a person dresses or their appearance; and as I

heard stated earlier here today, that because you live in a certain neighborhood, that you could be gang-affiliated. That's not the issue either. Some of these individuals come from nice neighborhoods -- what were considered by the norm to be a nice neighborhood. Yet, the harassment is still present.

Inasmuch as the scope of this hearing has been narrowed to dress and police harassment; the police harassment, I could give you 30 stories a day, but they were not harassed because of the way the individual was dressed. They were harassed because they were walking across a college campus, down a neighborhood street. We have a Hispanic that, probably, calls us once a week -- I'm sorry, once a day, every week, to say that he's constantly being harassed. Though his sexual preference may not be the most favorable, he still wants to maintain his right to have the sexual preference that he so desires.

But the problem's there. We can give you story after story of Anaheim and the Westminster police department; just, they don't fit the scope of the conversation today as far as the person being harassed by the way they were dressed. When it comes down to how you have a neighborhood, it doesn't matter how you dress. Thank you.

DR. HERNANDEZ: Thank you very much. Miss Inouye?

MS. INOUIE: Again, my name is Nicole Inouye, and I'm the 1996-1997 Asian-Pacific students association chair at the University of California, Irvine.

As chair of the organization, APSA holds, or has Asian clubs and organization. APSA, Asian-Pacific Islanders detects within our clubs, so I have contact with 18 clubs and officers on the campus.

The topic of the relationship between Asian-Pacific Islanders and the police has been something that is a very highly charged and very sensitive topic to our campus. There are still a lot of concerns, and a lot of people feel that there is still a target based on certain stereotypes and different other things. There is some level of misunderstanding and hostility, specifically since it's in Irvine, with the campus and more specifically, the Irvine police.

Last year, APSA did a panel; and what it was is we invited officers from the Irvine police to come to one of our meetings and talk about our -- just to start a dialogue with the students. We invited the students within APSA, as well as general members, to come in and just talk. And I guess the basic conclusion is, it wasn't quite as effective as we had expected or hoped for. It seemed that, unfortunately, it was a time for the students to -- this was their forum to talk about different things that they've encountered in Irvine, and it ended up to be a complaint session; and I don't know that that was the right forum to start a dialogue in. And when a lot of people left, they felt that there wasn't a lot accomplished.

And, I guess, in terms of what I see, I would just like to propose some suggestions as to, maybe, different things that, specifically on the Irvine campus and with the Asian-pacific islander students, as well as other students on campus, just that -- as you can see, or as I have said, the panel really wasn't a good forum to find a conclusion in; but I think the key to this is open communication, and open communication within other forums and other things need to be done ultimately.

I think that, as of right now, the police are seen as the enemy and not necessarily the people who are supposed to protect and serve the community. So, as of right now, I think there's a lot of people within the Asian-pacific islander community that see the police as unapproachable, un-trusted, not necessarily on their side. Just some suggestions that I've gotten from different students on campus is for police to be more seen on campus, specifically the campus police. It's been stated that there's a lot of police officers on bike detail, but we don't necessarily see them on their bikes. And maybe just to have a chance to talk to the police, as well as seeing the police in other forums, other than being stopped by the police. If, maybe, they could come to different events, maybe be there to have people talk to them -- maybe not necessarily while they're on duty.

I know that's an extra call for them; but in terms of relations with students, that's almost something that's going to be necessary because they don't want to necessarily associate these police officers with always being in their blue uniforms and in their cars and, you know, the -- on the other side of a detainment.

And I guess, ultimately, the biggest thing is, there's a big feeling that just because certain people drive certain cars or dress a certain way or look a certain way, that that's not necessarily a reason for people to be labeled as "gangsters" or to be talked to or questioned in more of an accusatory way.

So, I wanted to also thank you for your time, and I'll be open to talking later. Thank you.

DR. HERNANDEZ: Thank you. Mr. Tsang?

MR. TSANG: Thank you. Dr. Hernandez and other members of the committee, thank you for inviting me to be part of this committee.

I'm a co-founder of aware, the alliance working for Asian rights and empowerment. Aware is an advocacy group formed in September, 1993, originally to support the three high school girls that were photographed by the garden grove police department. Two of the girls had called me because I had participated in a demonstration at fountain valley city council that one of our future members -- she had already a group of young men that had been harassed by the police, and the organization at fountain valley and the director happened to be there, and the girls happened to be right up; and they

called me, and they called the city attorney. Luckily they called me, and we helped them, and they filed a lawsuit.

Since then, we have broadened our scope, focusing on civil rights education. A county-wide group, we have held community workshops, monitored trials of Asian youths in superior courts, visited inmates in O.C. jails, and given presentations at high schools in Irvine and in colleges as far as Santa Barbara and riverside.

We are, perhaps, best known for our "know your rights" cards. This is a first of its kind, I think, in the nation. It is wallet-sized card, giving young people the right to say, "no." Young people, whatever ethnicity -- white people, all sorts of colors -- to state with the signature that they do not want the police to photograph them. On the back of the card is also room for parents or guardians to cosign if the cardholder is a minor.

It might come as no surprise that law enforcement does not seem to like our card. Irvine police department's reaction is, perhaps, the most extreme. It devoted an entire paragraph in its October , 1994, training bulletin, 94-18 -- which I can make available -- on field interview photographs, written by investigator Mike Welch of the Irvine P.D., attacking aware and the "know your rights card" and claiming disingenuously, that it is not true; that one can say no to having their photograph taken.

The police position, as I understand, it's a public street and they could always take pictures. Our position is, it's hard. You're taught to say no to sex, drugs in school. Why don't you say no to police abuse? I believe that training bulletin's in response to a public records act request.

Subsequently, I filed a formal complaint with the Irvine P.D.; that aware was being singled out. It was rejected by the police -- he said if he was Mayor, then he would not have allowed this to go on. So, I showed up at an Irvine city counsel meeting to voice some concerns, especially about the city police photographing Asian students -- at UCI where I work -- driving Hondas, especially, in the middle of the night.

UCI later had received a complaint from one of the students and forwarded it on to the police. He had been photographed in the -- off the 405, having been followed by undercover cops leaving his Parkwest apartment at 3:00 a.m. in the morning, and eventually photographed.

Police chief Charles Brobeck was at the meeting. He assured the audience that UCI members were very happy with the police, and nothing was a problem. However, the reporter for the OC edition of the L.A. times was there, and he wrote a story about it, March 1, 1996, saying that the officials were going to review the policy. Some city counsel members were going to meet with the police. However, nothing has come of that.

Since 1993, we began surveying all police departments in Orange County about their policies of field detention and stopping minors on the street and photographing them. As you might imagine, we haven't had much success.

Ironically, the person that was most friendly to us was garden grove police chief Stan Knee, who you will hear from this afternoon. We met with him -- the parents of the girls who were photographed and us met with him and his staff and his gang unit; And afterwards, there was no resolution. So, the ACLU filed a lawsuit. In the process, we did get some documents.

However, even though the settlement was done, garden grove, at the time of the settlement -- I'm not sure if they still do it -- police still use field interview cards that call Asians "Oriental, Vietnamese, or Samoan." You can be either. As you can imagine, we really don't like to be called "oriental."

Westminster's police chief refused to come out of his office to meet us, even though the first Vietnamese American elected official, Tony Lam, had arranged the meeting and was there with us. The police chief was out jogging, and he came back and saw our buttons. He said he couldn't meet with us. He might be sued.

The Laguna Beach police chief Neil Purcell said we would have to sue them to get the information, claiming officer safety was involved, even though we had gotten the same information from Stan Knee in garden grove. He wrote me a letter, June 3rd, 1994, "without a discovery motion, I am not willing to honor your request for copies of these policies," Neil Purcell.

Anaheim's then-police chief Jimmie D. Kennedy claimed its photo policy complies with state law, but refused to release any documents.

Newport beach police chief Bob McDonell said he did not have a policy on stopping those suspected of being gang members, but photographs may be taken only if it meets the law.

Similarly, fountain valley police chief Elvin G. Miali assured us that its policies on non-custodial photography meet with the law.

Los Alamitos' acting police chief Gary Biggerstaff said his department is already overburdened and under-manned and could not answer our questions. He also disparaged our group: additionally, it appears that the group you represent, he wrote, is not one that is widely recognized or one that the Los Alamitos Police Department would be accountable to. He mentioned the Feds as some group that he might be accountable to.

Fullerton police chief Patrick E. McKinley, whom you will hear from this afternoon as well, wrote us to say that they only stop people based on reasonable suspicion and

probable cause, or within the context of a consensual encounter. He did say photos are taken based on consent or incident to an arrest. Only we do not, however, find that that is true. It is not informed consent when detainees are not told that their pictures may be digitized for the great gang computer system. Police departments in other cities ignored our request. We never heard from them.

We are especially concerned about the gang incident tracking system, data that is collected at UC Irvine on behalf of the Orange County chiefs and sheriff's association, which wants UCI to map gang incident data for them.

A public university should have no business doing secret research for the police. What the police did is dump all the data on UCI under some secrecy agreement, and UCI cannot release the data. The police, under the memorandum of understanding governing the UCI-OCCSA link assigned by UCI, it is the police that has the right to decide who gets the data, when to release it, what reports to release.

Secrecy is the trademark of this project. It took me months before the university would release even the grant proposals relating to this project for an article I wrote.

Furthermore, the researchers were using flawed definitions of gang incidents, including a criterion similar to great's gang definition criterion that a reporting agency, garden grove, has promised not to use in its ACLU settlement, therefore raising doubt about accuracy of the mapping.

This was brought up earlier in the ACLU panel about criteria -- yeah, no. 6. Basically, that if all the above does not fit, you can still add them. Well, that was thrown out of garden grove. They cannot use that because of a settlement; and according to prosecutors this morning, they're not using that in Orange County.

However, if, according to the grant proposal I got this in, the criteria doesn't fit above criteria, you can still add this incident as a gang incident. This still was used to form the basis for this grant proposal, and they received, like, \$3,730,000 to do this mapping.

I personally also have been threatened. After one of our community meetings, two Westminster police officers called me up by phone at 8:30 in the morning. The first, to challenge some data I had cited from its target program, regarding 22 percent of the people stopped in Westminster target program are Asian, even though the population is 23 percent Asian. This cop wanted to know where I got the data. I got it from their own reports.

The second cop who called me that morning was Mark Nye, a detective in its gang unit. He threatened to sue me if I misquoted him, he said, again from a report on identifying Asian gang members that he had written for the police.

He wrote about female gang members, "the females can dress up for going out on the town and not look like gang members at all. This can be very deceiving for the novice police officer who has no knowledge of individual gang members. Therefore, caution should be utilized whether or not they are dressed in the gang attire. Even though they disguise their appearance, they usually drive the same vehicles they drive when playing the part of the gang member."

So, they're saying if you wear regular clothes, you're in disguise. "Therefore, it is important," he wrote, "to document not only individual gangs and gang members, but also gang-related individuals as well"; and how you find out if it's a gang vehicle is if it's been stopped in a previous encounter and has some association. This is from "Asian gangs in little Saigon: identification and methods of operation" report. On the stand in a trial in superior court last year -- the Vinh Nguyen case -- 1995, August 9th, where he was a gang expert, Nye admitted under oath that he had made this threat to sue me.

I have also been the recipient of an August, 1993, telephone threat to my UCI office, "idiots and assholes like you speaking up for these little punks deserve to be shot." Right after I wrote a piece for the L.A. times about the three girls.

And I also got hate mail from a self-described policeman, who wrote under the name of Nathan Hail on the same day: "I first began arresting Asians while I was an MP in Saigon. As a stateside cop, I found Asian (particularly Vietnamese punks) to be even more vicious. Any -- and let me emphasize the word any -- tool that can be brought to bear in the war against these little punk gangsters should be implemented --their civil rights be damned.

"As a cop, I quickly learned to divide the world up into two groups of people: cops and assholes. Your article only served to reinforce that point. Let me tell you something, mister, the cops wouldn't have stopped your little cry-baby teenager buddies unless they were doing something wrong (or about to), and believe me, cops know -- it's called gut instinct.

"you know what I think? I think you need to take your sniveling little punk ass out on a ride-along with any police agency in Orange County. Gang specialists Marcus Frank And Mark Nye are real pros. You could learn a lot from them."

"Despite jerks like you who 'travel through fountain valley to get to little Saigon,' I will continue to frequent Bolsa with my Vietnamese wife, (who also thinks you're a fucking jerk -- probably because you're Chinese, which explains a lot.

"But you're probably queer too, which might explain why you seem to have your ass up your ass."

The letter ended with a carbon-copy notation to detective Mark Nye. UCI police investigated this case, and it was -- the P.O. box was used by a Vietnamese trading

company; and on the bottom of this Vietnamese foreign trading company, from one -- I think from L.A. county; and at the bottom it says, do not give mail to Nathan Hail. So, we don't know who he is. I think times you know to get back to the letters we received.

Overall, we found this official intransigence to be quite disturbing, especially because it comes from, supposedly, public agencies. It shows the dire need for independent citizens' review panels in each city in Orange County, and for a review panel to review the sheriff's department.

Incidentally, when a white punk rocker complained about being detained in south county, I discovered the county sheriff does not provide written complaint forms to the public. You have to talk to a policeman. There's no forms available at Aliso Viejo sheriff's and records department.

Because of the cards and our work in the community, young people have been reporting incidents to our hotline. Today's situation is very much similar from what happened in garden grove.

Nothing really has changed. Asian youth report they are pulled over regularly and queried about gang ties with the chief perpetrators, police from Irvine, Fullerton, and Anaheim. In just the last few days, three Korean-American UCI students have come into my office to report to me personally that they have been pulled over by area police while driving, and subjected to intrusive questions about gang ties. Some have even had their shirts lifted up in the search for tattoos.

And I actually have a video. I can show it in just one second. It's just a one-minute video of Westminster police stopping Asians. It was the night of O.J.'s driving the Bronco in Orange County; but the rest of the nation was watching that.

(a videotape is being played.)

MR. TSANG: Here's our cops stopping these kids in the pickup. I'm sorry the audience can't see this, but I'll show one second of it. This was, I think, Magnolia on the night that happened in '94; and you can see the person on the right. There's a bunch of people in the pickup, and he just had his shirt lifted up. And the cop's looking for tattoos.

In the earlier situation, another guy was -- also had his shirt lifted up with flashlights shining on him. Of course, I do not know what happened in this incident; and perhaps, probably, a reasonable suspicion that a traffic violation was happening, because they did -- there are, like, a lot of people in this pickup, but that's -- my point is that a lot of times there are legitimate traffic violations, but why ask about gang ties, even if your car has been modified.

(the videotape ended.)

MR. TSANG: Another youth, who visited me in my office, was a freshman. He had just applied at UCI last September, moving to UCI, with his family in the car behind. He was pulled over by the Irvine police, and they wanted to take his picture for this gang computer; and luckily, the parents were there in the car behind and intervened to prevent the photography. Since then, he has been pulled over another four or five times. All these cases are Korean-Americans.

Another youth, whom I interviewed on my KUCI radio show, "subversity" was also a Korean-American. He had also been harassed, and I have a little expert from that. I'll just --

DR. HERNANDEZ: Can you quickly summarize that, because we're running late.

MR. TSANG: Okay. I can play it. It's important because I think it shows -- hears the voice of a student who's at UCI, talking about a case a few years ago when he was still in high school, and the Fullerton police pulled him over. In every case, now, when -- sorry wrong one. Sorry.

(an audiotape is being played.)

Question: "This case, this is when you were in high school?"

Answer: "yes, when I was -- this is two years ago and, you know, officer was obviously, you know, in an awkward situation. He said I had a gun. I didn't have a gun. After he searched -- thoroughly searched my car, and then he proceeded to threaten me, he said that he doesn't want me, my kind, in Fullerton; and that he wants me to stay in my city in Anaheim. And I was scared. I'm not going to argue with a policeman. I said, 'okay. I won't come back, you know.'"

(the audiotape ended.)

MR. TSANG: So, that this student, a sophomore, Korean-American, also leaves campus really early every day so there is less risk of being pulled over. He's afraid to stay on campus after dark.

I think -- one solution, I think, out of this log jam, I think, is what happened in Pennsylvania. A group that I was involved in, that I had originally co-founded, Asian-American United Organization, in 1993, protested police photo-sweeps of Asians in Philadelphia.

The Philadelphia Bar Association, the mayor's commission on Asian/pacific affairs, and the Philadelphia Police Department jointly came to an agreement that they would not conduct these Asians -- sweeps of Asians in Philadelphia; and the reason they are able to do that, in fact, is because Pennsylvania has a state law that says that you cannot

keep pictures of minors unless they are arrested. We should similarly work for such a ban.

DR. HERNANDEZ: Could you conclude your remarks now? You've run over.

MR. TSANG: I think that there's, perhaps, another way out. The police departments, themselves, can decide not to take pictures of youths for their gang files. The UCI police invited me to sit on a panel to interview new police candidates for the UCI police department last year. I interviewed 24 candidates.

The UCI police have agreed, because of the concern from the students, as Miss Inouye mentioned, to not take pictures. They've never taken pictures and will not. So, police can actually, on their own, decide. So, it is possible to show some leadership here.

DR. HERNANDEZ: Thank you very much.

I'd like to open the panel, now, for questions from the panel.

MS. BUITRAGO: Earlier this morning we heard Mr. Conley from the district attorney's office, talking about the preventative measures that the county police are taking to try to deal with the gang problem.

I'm just wondering if you see any of that happening in your community, and what efforts are played if any. maybe you can answer that.

MS. CASTRO: In Anaheim, you don't see any efforts of communication. United Neighbors was founded in December. At the first meeting, we contacted the police department and asked them to come in and give us some explanations of the photographing of minors; what was the law, what was the procedure.

Captain Hedgebeth, [phonetic], attended, Captain Sieverson -- Lieutenant Sieverson, [phonetic]; and I'm trying to recall the other -- Sergeant Calley, [phonetic], from the gang detail attended the meeting. Their attitude was not one of cooperation or communication.

First of all, they looked the adults in the eye and told them that they had no parental rights. Quote, end quote by Officer Calley, "you have no parental rights to remove photographs." And they stated that just cause was enough reason to take photographs, and just cause could be just about anything they thought of that day.

So, there didn't have to be a crime; there had to be no proof of a crime, no arrest. They could be -- minors could be photographed just because the officer felt that he had a darn good reason to do it.

DR. HERNANDEZ: In your contact with the police department, have you been given any criteria that are being used by the police to classify a person that's a gang member or a gang associate or a gang affiliate? Have the police given the community any criteria at all, by which they classify somebody like that?

MS. CASTRO: Yes, I do have that available today. It is in a packet that was turned in on behalf of United Neighborhoods to the commission; but I -- if I can get a minute, I can get that criteria. You have to meet two of six criteria to be labeled an associate.

DR. HERNANDEZ: And that is for Anaheim?

MS. CASTRO: This is a statement that was given to us by the probation department at a meeting to gather information on what was the gang criteria. This was provided by a probation officer and as a handout to that -- to that meeting, and it's gang identifier, State of California Penal Code Section 186.22.

A gang member is any person who actively participates in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal activity and who will try to promote, further, or assist in any felonious criminal conduct by members of that gang. The mere fact that the individual knowingly and by choice associates and commits crime with other gang members.

A gang member is determined by any three of the following, and there are nine criteria:

- No. 1, an individual who admits affiliation with the gang.
- Criteria 2, has tattoos identifying the affiliation.
- Criteria 3, associates with others who affiliate with the gang.
- No. 4, wears colors, clothing indicating gang affiliation.
- No. 5, is present in a photograph with gang affiliates.
- No. 6, has been identified by other gang affiliates.
- No. 7, writes about his gang affiliation in the form of graffiti.
- No. 8, a family member or a relative who is affiliated with a gang.

Other documents indicate affiliation. So, you must meet three of the following criteria to be considered a gang member.

In order to be a gang associate, you must meet two of the following nine criteria:

An individual who admits affiliation with the gang, has tattoos indicating affiliation, associates with others who affiliate with a gang -- so, you can be three times removed. Wears colors, clothing indicating affiliation, is present in a photograph with other gang affiliates, has been identified by other gang affiliates, writes about his gang affiliation in the form of graffiti, has family members, relatives affiliated with the gang. Other documents indicate affiliation.

So, pretty much, by this criteria, just about every boy scout in America could be affiliated with a gang.

DR. HERNANDEZ: Other members of the panel, any questions?

MS. FUA: I know you weren't here, necessarily, to answer this question, but I'd be interested in knowing the answer to this question, which is: you've documented many instances of problems with the police, and some of you have made suggestions as to ways that it could be improved. I took down citizens' review panel, open communication, not doing any of these sweeps.

This question is to all members of the panel: what would you ideally like to see happen here?

MR. LOPEZ: If I could address that, and I think it goes to the panel member's question before. In 1996, in March, the department of justice, specifically the attorney general Janet Reno, handed down a huge packet on the Internet; and it concerns certain things about truancy, crime, violence, empowering parents to take care of their children; and ultimately, parents are responsible to a point.

Some of these recommendations -- and I think there was over 104 recommendations. One of the key recommendations was that police departments must not be heavy-handed with youth. Now, we're not talking about people who commit crimes. Everybody here will say that, and we said this before about having safe communities. The problem is, when you have no alternative other than to come down heavy on youth, there is no alternative to youth to stay away from the police. You've heard some transgressions that have happened here today. In the packet I gave you, one of the people that's in the program, especially in Anaheim High School, justice project. Well, like the gentleman said on the end, school watch/sentry has under the California Penal Codes, asked what would the justice project, and see what the grant is -- or if the grant, in fact, employs other things that justifies, but goes to community support, community outreach, church outreach. Excellent mentors, like the young man -- gentleman we have outside, Amin David from Los Amigos of Orange County. It's a uniform alliance between the police and the community.

When the police don't ask the community -- we have all this grant money. Come bring your best. Come talk to the students, tell them why we need the police in a climate where there is danger, and the community will agree with that. The police don't do that, and I think you've heard a number of people here.

We talked to the UCI police in the past four or five weeks. You do not have that type of communication with the police. The grants are out there. The commission should make some type of recommendation, and I know when you look at all this, those grants should be sought after with the police in cooperation with the community, not as a sword.

DR. HERNANDEZ: Do you think it might be fruitful for the chiefs of police of Orange County to, maybe, hold a summit in which they would invite community members to come and sit down with them and talk about some of their problems?

MR. MASSEY: You bet you.

DR. HERNANDEZ: would that be something you think would be helpful and useful?

MR. MENDOZA: I -- I'd like to address that, if I can. The quick answer would be yes, because that sounds very good; I mean, to have all these heads of departments together and to talk within the community regarding these problems.

However, the problem that I see is that I believe that they know that there is a problem. I mean, it's not like they haven't been informed, and it's not like -- for example, in the case of United Neighborhoods, they have not been apprised to the problem and invited to speak to the community members and the organization about it.

I think what's really, really difficult to deal with in this situation, especially with the Anaheim P.D., is this kind of siege mentality that the police officers have. I believe that's got to -- they have to make a conscious effort and commitment to change that siege mentality, okay, before we start talking about meetings and shaking hands and offering recommendations; because, like, for example, in the cases that I told you about, I think a lot of times they use -- like, for example, in the case of Gary Bradford who was on gang terms and the like, they use that as a pretext, I think, in my opinion, okay. They use that as a pretext to stop him and to intimidate him and physically harass him.

That, to me, is indicative of a siege mentality, and it's been by a number of officers, according to Gary. So, that's got to be the problem. That's got to be addressed first; all right? And right now, I honestly believe that what's going on is that the wagons are starting to circle, okay. The wagons are circled.

And in the case of the Anaheim P.D., in view of the fact that they got hit recently with a \$340,000 judgment in the case involving Steve Nolan who was victorious against them, I think it's going to be difficult to get them to cooperate in view of that example, okay? And I mean, it sounds like a very nice idea. It really does, and I will be all for it.

DR. HERNANDEZ: Is there any objection, on the part of the communities, sitting down with all of the police chiefs and talking things out? Is that something that you would be opposed to?

MS. CASTRO: No, it's not; but you know what I found very interesting, there was no one from the Anaheim P.D. here to talk on the panel. I mean, I didn't see their name here.

DR. HERNANDEZ: Yes, ma'am.

MS. CASTRO: I'd like to say that the community is not opposed to it. United Neighborhoods was founded exactly on that principle of meeting with the police to discuss an incident. That was exactly the purpose of the organization: to meet with the police, to discuss an incident that many of us have eye-witnessed; that we felt was improper conduct on behalf of the police department.

We were not met with the -- on behalf of the officers that I mentioned before, Sergeant Calley of the gang detail, officer Mark Hedgebeth, and Lieutenant Sieverson, we were not met with an air of wanting to have open communication. We were blatantly told, "it doesn't happen that way. Never mind what you adults are telling us happened that were eye-witnesses. It didn't happen that way. No, you're wrong. No, you don't have any rights as a parent."

DR. HERNANDEZ: So, you were told you don't have any rights as a parent at all?

MS. CASTRO: Correct. You have no rights as a parent, if your child is being photographed, to say, "hey, wait a minute. My child has not been in any trouble. There's no criminal records on this child; and I am the parent, and I'm taking responsibility for this kid, and I do not want him photographed."

We were told by Officer Calley, who is in charge of the gang detail, "no, you have no parental rights." So, the bottom line is, I feel that we can't come together in a forum where one segment of the community views an attitude as a problem and the other side has, time and time again, said, "you are wrong. There is no problem. Get over it. We don't want to talk about it. We don't want to hear you whine about it. Just get over it. There's not a problem"; and that's where the problem is.

As a matter of fact, I have to thank those three officers for their smug and snide responses; because thanks to them, that evening, United Neighborhoods made a real commitment to make changes in Anaheim. So, I really have to thank them for their snideness.

MS. BUITRAGO: Mr. Mendoza, what would you suggest in terms of suggesting the first efforts, as you worded it, the psycho-mentality. What specific recommendations? If you don't think that starting off with meeting with the police leaders is going to really work, what specific recommendation would you like to make?

MR. MENDOZA: At this point in time, in all candor, I think the only thing that's going to change that is litigation. That's what I think. I think we can meet all we want.

I was at a meeting with -- the Korean meeting organization met with the chief of orange department after a Korean-American was shot to death with 42 bullets in his vehicle.

And you know, we can talk all you want; but what we need is changes in policy, and a policy that actually will treat people -- say that you will not discriminate, you will not harass people, and also leadership.

UCI police didn't take pictures. Why can't the other police do that? When they came to UCI -- the Irvine police department, the policemen did not have an answer for why they take pictures. "what's the use for it?" They really have no answer to that.

So, I think it would be nice for the commission to recommend that there should be no pictures -- no pictures or no files kept on people, unless arrested.

MR. LOPEZ: In address to the recommendation; in the back of the room, we have Jose Vargas from the Santa Ana police department, who's been a member of the Santa Ana police department for a long time.

I also have to speak to certain -- perhaps, what the panel, not being from Orange County, doesn't know about: recently we were involved in a diversion program. School watch/sentry helped a young man who was part of a program run by the Orange County Bar Association, and I do have to tell you the recommendation for that young man to be diverted out of the juvenile justice system came from a very fine Santa Ana police officer who's on the campus at Santa Ana unified. That's officer Kirk Myer, [phonetic]; and I have to tell you this, from deep down inside: I've had dealings with this officer for the past three years. He has stood out as a shining star.

Those are the police officers that the Orange County Bar Association and the U.S. Commission on Civil Rights should look for and say, "what makes you the shining star?" Well, the key element is truth. It is the truth he tells every day, because he represents the best interest of children. That's the truth.

MS. CASTRO: To the question of recommendations, I believe that the only viable lasting solution is a civilian police community review board. That is the only viable solution that will not revert back to the same behavior patterns, and that would be a civilian -- the community review board with subpoena powers to do investigations.

If you were a brain surgeon, would you conduct brain surgery on yourself? Yet, that's what we ask the officers to do. We ask one officer to investigate misconduct of another officer. And in the case of the city department of Anaheim, the officer that is in charge of investigating claims of brutality is one who has been charged; and here he is beating a minor. Now he's the head of internal affairs. He's supposed to make sure the other guys follow the rules, and here is the depositions of the people that he's beaten. I think that that's ridiculous.

So, we need an outside agency that have subpoena powers that can review police files for complaints; that can set policies for removal of police officers after a certain amount

of complaints. That is the only viable solution that is not going to revert us back to this behavior when the smoke blows over.

Obviously, they don't have much respect for litigation; because three years ago, Dan Tsang, in the project aware, came up with some policies on the gang identifiers. You've heard testimony all day today. These kids are still being stopped and photographed. Many of them have no affiliation with gangs. They simply live in an area that is a targeted gang area. They simply dress in a fashion that is fashionable for the area in which they live, the schools in which they participate. Those are the dress codes of the youth of the community, the style. And shaved heads, what is the law violation of shaved heads and baggy clothes? If it's against the law, let's shut down miller's outpost, okay.

DR. HERNANDEZ: I want to thank the community panel for taking time out of your day to come before us.

I appreciate all of the information you have given us; and all of the different exhibits, if you wouldn't mind giving it to one of our staff, the U.S. Commission on Civil Rights staff members, so we can enter it into the record.

Thanks again. Let's take about a five-minute recess if we could, and then we'll convene.

(AFTERNOON RECESS WAS TAKEN, 2:30 P.M.)

C E R T I F I C A T E

I, Kathleen E. George, California CSR No. 11071, do Hereby certify that the foregoing is a full, true, and correct transcript of my said notes and a full, true, and correct statement of said testimony to the best of my ability.

I further certify that I am not interested in the events of the action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at long beach, California,

This 9th day of June, 1997.

Kathleen E. George, CSR No. 11071

OFFICIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE CALIFORNIA ADVISORY COMMITTEE TO THE
U. S. COMMISSION ON CIVIL RIGHTS

PART 2

MR. HERNANDEZ: I'd like to call the hearing back to order. This panel will give law enforcement the opportunity to give us their views and their input as to how they see the problems in some of the testimony that we have gotten this morning and will be able to respond to that.

Present today on the law enforcement panel are Chief Pat McKinley from the Fullerton Police Department; Chief Stan Knee from Garden Grove; Chief Loren Du Chesne -- I hope I pronounced that correctly -- from the Orange County district attorney's office and the bureau of investigation. And also -- I think I have this right now -- Don E. Holstrom who is the chief of deputy probation officers from the Orange County probation department; is that correct?

MR. HOLSTROM: That is correct. Dr. Schumacher is in Sacramento today working with the legislative committee and extends his apologies.

MR. HERNANDEZ: And I see another panel member that I don't have listed here. So why don't I do this: starting from my left, could I ask, for the record, that each member of the panel identify themselves?

MS. MAC DOUGALL: I'm Marilyn Mac Dougall, executive director of drug use is life abuse and project no gangs.

MR. COOK: I'm chief James Cook from the city of the Westminster. I'm chairman of the gang steering committee.

MR. HOLSTROM: Don Holstrom, chief deputy probation officer of Orange County.

MR. MC KINLEY: Patrick Mc Kinley. I'm the chief of police of Fullerton.

MR. DU CHESNE: I'm Loren Du Chesne, chief with the district attorney's bureau of investigation.

MR. HERNANDEZ: Thank you very much. I appreciate your being with us.

Who would like to -- well, I think what happened is we have -- it's not according to my list. It's changed some, but let's go with the panel that we have, because that's reality. So who would like to go first? Okay. Chief. Please identify yourself again.

MR. MC KINLEY: Mr. Chairman, my name is Pat Mc Kinley. I'm the chief of police for Fullerton. My position here, before the council, is to explain the relationship between the Orange County chiefs and the sheriff's association and the Orange County Human Relations Commission. I'm also a commissioner on the Orange County Human Relations Commissions representing the third district. I was appointed by supervisor Getty Vasquez and have held that position through supervisor Al Garell and the current supervisor, Todd Spencer.

Unfortunately, the executive director cannot be here this afternoon -- Rusty Kennedy. His father is gravely ill, and he's at his bedside. So he won't be here. He called me, and asked if I would also relate a few items to the commission. So you can scratch Rusty Kennedy, and it will make it a little bit faster.

The Orange County Human Relations Commission and the Orange County Chiefs and Sheriffs Association have a very unique relationship. Perhaps you won't find anything in a county of this size anyplace else in the country. I don't know anyplace where a chief of police is a member of the human relations commission. As such, we work very closely together. It is not an adversarial position at all. It is very cordial. The director comes to our meetings -- our monthly meetings. And any chief or any member of the committee, actually, is always welcome at the human relation commission meetings.

I would like to point out some of the things that Rusty Kennedy asked me to bring to the commission -- understanding that our county of 2.6 million people is the fifth largest county, I think, in the country and populationwise. So we are very big, and we do work very closely together. Probably as close as I've seen chiefs work, in any area, in any county.

Some things that rusty asked me to bring forward to you is that the collaborative effort of the chiefs of police and the human relations commission created a hate crime network. The commission -- through the chiefs of police -- we publish a quarterly report on hate crime. It's been -- that's been in operation for six years. And the commission meets with the officers and the citizens to try to stop hate crime and the terrible things that it creates. This is, I think -- I'm very, very proud of it, as is the commission -- a landmark as far as trying to fight hate crime.

We have a countywide protocol on hate crime and how we will report it within the Orange County Chiefs and Sheriff's Association. The human relations commission sponsors a community-based policing award -- that's yearly -- for those departments that have some kind of a thing that has a community operation and community cooperation and brings the business community and the enforcement community together. And we're very, very proud of the results of that.

The commission provides mediation between individual groups and the community and the departments. Our own individual department, the Fullerton Police Department, was a recipient of that at one time, when we had some problems at Fullerton college. The commission came in with rusty and helped us mediate with the community regarding that. They have done the same thing with the Korean community and orange police department and the same thing with the Vietnamese community and Westminster Police Department.

The commission provides police ethnic training at all the various police training facilities in the county, and it uses an organizational development approach in providing that training. That gives you a little oversight of the Orange County Human Relations Commission and their relations with the Orange County chiefs of police associations. So I think it was very important that you, as the board members, understand that we do not have an adversarial relationship with you at all. And now I'd like to pass the discussion to don.

MR. HOLSTROM: Thank you very much. I'll repeat for the record, Don Holstrom, chief deputy, Orange County probation department.

I'm here this afternoon to discuss our studies with chronic repeat juvenile offenders. It's been referred to nationwide as the 8 percent research or the 8 percent problem. We prefer to call it the 8 percent early intervention program. In essence, we are experimenting with new ways to approach juvenile crime. And the goal is to spend more time services on those who need it and less on those who do not need our services.

A study came about in the mid-80's when the county board of supervisors, law enforcement, chief probation officers, taxpayers, et cetera, questioned us about our success rate. We, too, were questioning how effective we are with certain offenders. We're responsible for both juvenile and adult offenders, who have terms and conditions of probation established by the court. And while serving as an administrative arm of the court, it is our responsibility to

enforce the compliance with those terms and conditions of probation.

But we initiated a 7-year study that was concluded in 1993. The results were published the following year. In essence, we established two sets of first-time offenders totaling approximately 6,400 Orange County youth, who were referred to us for the first time.

MR. HERNANDEZ:

Would you be able to make the study available to the panel?

MR. HOLSTROM: Certainly. It will be a privilege.

MR. HERNANDEZ: Thank you very much.

MR. HOLSTROM: The good news concerning the outcome is that 70 percent of the young people that were brought to our attention do not commit a second offense -- contrary to public opinion.

22 percent is the average juvenile probationer. They've committed one or two more crimes prior to ending their criminal careers. The primary focus was subsequently given to the 8 percent who were committing 3 to 14 additional offenses. The 8 percent are responsible for 55 percent of the repeated juvenile crime in the county of orange. They average 8 crimes or probation violations apiece, and they average approximately 19 months of incarceration as both juvenile and adult offenders.

This project has attracted nationwide attention. The study has been duplicated at other California jurisdictions. And in Los Angeles, for example, they found that their chronic repeat offenders were numbering closer to 16 percent as compared to our 8 percent.

The profile of the repeat offender, these young people -- and they're identified by three or four of the risk factors that I'm going to briefly outline for you: they are 15 years and younger; they have a history of failing in school, or they do not attend at all; they have disrupted families as a result of divorce, abuse, illness, family members in jail, other aspects of dysfunction; there's more than a casual use of drugs and alcohol. It's routine use. The delinquency factors also make reference to poor peer group, a pattern of thefts, a runaway pattern, et cetera. Most have not committed serious crimes as yet, and 16 percent in this age category are identified for gang-related involvement. And our study revealed that by age 16, it had expanded to 65 percent. The key characteristic also involves the family's inability or in some occasions the unwillingness to

provide supervision, structure, and support for their child's development. Parents do not know where their child is, their friends, or their activities, and seem to have little or no influence over how they spend their time.

The cost of the community, as well as to these young people, is expensive. They are victimizing the community with their repeated offenses. They're averaging those 8 law violations apiece that I mentioned. They're filling the court calendars; they are choking our institutions; and the number that are identified each year is approximately 500 Orange County youths that fit into this 8 percent criteria.

The 19 months that they are spending, on the average, in our institutions is costing the taxpayers approximately \$44,000 in custody cases alone. Our current plan -- and although it has been slowed up somewhat by Orange County's bankruptcy -- was to take advantage a pilot study that we have initiated in the cities of Anaheim and Buena Park. We enjoy a very positive and constructive working relationship with the police chiefs, with the school administrators, and an extensive variety of community-based organizations: health, welfare, recreation, employment opportunities, et cetera. Our aim is to work with the entire family and to address the social problems that are identified within that family.

We are striving for a balanced approach that entails community protection holding offenders more accountable and striving for intervention by restructuring the family or at least offering them the opportunity to take advantage of community-based resources. Those are the highlights, and I'll open it later for questions.

MR. HERNANDEZ: Who is next?

MR. HOLSTROM: Police chief cook is next, I believe.

MR. COOK: Okay. Members of the commission, again, to restate my name, I'm Jim Cook. I'm police chief for the City of Westminster, and I'm also the chairman of the gang strategy steering committee. I'd like to tell you about the gang strategy steering committee and what the Orange County police chiefs and the sheriff's association has done. This is a committee that we formed to look at ways to help reduce the number of gang crimes and address the problem in a systematic way countywide.

We have come together as an association, in a rather large county, to deal with this problem in a coordinated way. Without this coordination and without

the cooperation, it's very difficult to achieve the type of results that we want to achieve. For one thing, in a highly urbanized county such as orange, you can go from one city to another and it simply means you cross the street, and when the light changes, then you're in another city.

So Orange County is very, very famous for coordination and cooperation. We have joint radio systems. We have a lot of systems together, and the chiefs formed this committee to deal with what we saw as a very, very serious program.

I brought some overheads today. I don't really see a way to set those up, but in the interest of time, I'll move through this. But to stay with the gang steering committee, we formed the committee to deal with the most violent and difficult mechanism in society today that creates a lot of crime. And we wanted to address not only the unexplained rise in violence in Orange County, I can tell you that by the year -- further demographic data. In Orange County years 15 to 19 will increase 10 percent by the year 2000. So we will see a 10 percent increase. And in the criminal justice system, this will bring a tremendous burden on a system that's already overloaded.

And so the committee was formed to look at prevention, diversion, ways we could keep young people out of the system, and also, quite frankly, a law enforcement method that we could use to crack down on gang leagues. And these people are here now, so these figures are not projections. They're actual.

There will be a 10 percent increase in the 15 and 19-year-old age group by the year 2000, three years from now -- maybe two and a half. And by the year 2010, there will be a 61 percent increase in young people in the high-crime prone age of 15 to 19 years.

So as a method to address this demographic change, we have created the gang steering committee. It has -- one more statistic that I find absolutely startling about Orange County. There, also, is in this country an unexplained rise in violence among young people. We have all seen the studies from the national institute of justice, and we know that violence is increasing in scope and -- I hate to use the word -- quality, but it's become much more serious. And so when I read the study by Olenski's in Atlantic Monthly, 1995, we began gathering data on what the unexplained rise in violence was. You can look at Milwaukee, Wisconsin -- and this is straight from Olenski's article in Atlantic Monthly, 1995.

He said, let's look at a city: Milwaukee. And in Milwaukee -- just in the three most violent crimes: murder, rape, and robbery -- he said, in 1960, there were 27 homicides in the city of Milwaukee. And in 1990, there were 165 for a 511 percent increase. And he went down to rapes at 33 in 1960 and 598 in 1990. And robbery has the same astronomical increase.

So the next thing you would say is, well, okay. That's fine. But had the population increased? No. The population actually was smaller in 1990 than it was in 1960. So we see an unexplained rise in violence.

So we pulled the figures in my agency and looked at the increase in Orange County. Across the board 2.6 million people. In 1966, in Orange County, we had 29 homicides; in 1990, we had 149 for a 414 percent increase. Rapes in 1966, we had 150; and in 1990, we had 607. And robberies in 1966, we had 503; and in 1990, we had 5,212 in Orange County. And that's a 900 percent increase.

And the number of homicides, which is a pretty solid figure in crime statistics, it's pretty hard to disregard and get personal. There's 414 percent increase. You say, well, we know that the population in Orange County has increased; and it has increased about 69 percent. So it has not increased anywhere near the amount that violent crime in Orange County has increased.

So when the chiefs en banc looked at this, we saw that we had a rate of violent crime that's increasing rapidly. We have a rapid increase in that portion of the population, the 15- to 19-year-old age group that commit the most violent crime, historically; and three, unfortunately, we've had a severe increase over the last 5, 10 years in the number of gangs in Orange County. So when you put these three factors together, we felt that we would have to do something to intervene.

So we created three elements in the police chiefs association and in the gang steering committee. First is multi-agency, interdisciplinary cooperation, and commitment to common strategic goals -- all of the agencies in Orange County. We looked at a wide variety of government and nongovernment organizations: public schools, boys and girls clubs, businesses, participation in planning sessions, gang abatement programs. We are working very hard on all of these.

The second major part of the gang steering committee is the plan and action through the full range of antigang tactics. The Orange County strategy includes continuous, cooperative development of plans and implementation of

programs in five areas of tactics including suppression, enforcement, intervention, education, and prevention, and specific projects and programs at each of these tactical areas, some of which are described in more detail later on.

But what I will tell you is that we have been fairly successful. We are continuing to do different things. One of the things is the committee has sponsored two grants. One grant was from the cops office in the justice department for almost a million dollars. That money is being disbursed through the gang steering committee to areas of need. It goes to both prevention and suppression purposes. A second grant was given to us by the governor of the state, of \$750,000, last year. And, again, it's been evenly distributed between research, prevention, and suppression programs. We believe that you leave out any part of the puzzle in gang abatement, in an effort to control gangs, that you are weakening the other part.

For example, the target program, which has won the national league of cities most innovative program award, has spread across the country. It's being looked at by Chicago, by Phoenix, and some other cities, that have come to visit us and look at the target program. It, also, has spread and will continue to spread in California.

The original target program was to the City of Westminster, and over the years -- and we have a five-year track record and I won't bore you with another chart and everything else -- but our five-year track record shows that we reduced, in the City of Westminster, gang-related part 1, FBI crime by 50 percent. We have cut the gang crime rate in half. Not only that, we have taken a strategic position wherein we now find that prevention programs are having a much easier time moving in behind the suppression program.

Now, target is based on two concepts. The first concept is we identify the most vicious, the most -- the gang leaders, and this is done through a series of assessments. Once they're identified, the target team concentrates its effort towards those individuals that precipitate the most violence.

The second part of the target team is that we have rearranged service delivery within the criminal justice system. We have combined with probation, the district attorney's office, and police. This small team is placed on the front end of the criminal justice system inside the police building. And that's a critical part of this.

The district attorney is able to construct his case, from day one, against the individual gang leader who has been targeted. Probation is there to provide us records and to help us with probation searches and a myriad of things.

Third, the police are there. And for the first time, as all parts of the criminal justice system work together in the police building, on the front end of the system, we can move at lightning-like speed through the criminal justice system and remove gang leaders who have committed crimes.

I will tell you, one, that we have had this 50 percent reduction in gang crime in our city, and it's held constant -- and we can prove it with our database -- for five years. Secondly, we have lost one case in five years. We have a 99 point something conviction. And third -- and very important to us -- we have assumed the strategic position where the gang leader is no longer preferred and has a status on him. When he's targeted, every member of the gang knows that sooner or later he will be leaving there, as soon as the first crime is committed.

So we are better able to move our prevention programs in, in place. And we are working with those. And Marilyn Mac Dougall will tell you about the one that the gang strategy steering committee presents. And all the police chiefs in Orange County have different programs.

The third part of the Orange County gang strategy steering committee -- and perhaps one of the most important ones -- is database strategy, formulation, and decision making. We recall making our decisions on hard data. We have more hard data, probably, than any other county around in the state, that we know. All of -- we have made an arrangement and a tracking system with the university of California at Irvine. UCI does the tracking for us on our countywide program, and it's the gang incident tracking system, GITS.

Now, GITS was designed by the police chiefs association to be given to an outside university to take a hard, cold look at how we gather the data and what the results are. We simply send them the data with no names. They just have numbers and the incident that occurred, and they keep it in their database. So we wanted an outside look at gathering gang data, so we could accurately measure, and it would be above reproach -- or as close as we can get to perfect -- and so that we can then say, this is the extent of the gang problem.

And the second important thing is we established a baseline data year of 1994. In 1994, we measured gang crime in Orange County; and in 1995, we'll measure it; and the '96 data is soon to be released, and we have it. And we will do it

again in '97. And we will be able to say whether the prevention programs -- whether target continues to operate at its current phenomenal rate. We will accurately measure gang crime and gang incidents. We want to get rid of the mess. We want to get rid of all of that. We just want the truth.

Now, it bothers me as a police chief to say that we've set in 1994 data -- a baseline data year because every year, in my city, I get to look back and compare to 1994 to see how we're doing. I think that's very important and what program is working. We will be able to get more information about the condition and status of gangs in Orange County than any other county around.

This is the first time it's been done in the united states. We've had visitors here from the justice department and from the state and everybody else looking at the system. We hope that by accurately measuring it we can take better preventive steps that we can combine with the 8 percent study, that the probation department has, and other research that's going on. And we can compare that against what we have and know where these millions of dollars are going and then fight gang crime.

Those are the three major elements that the gang steering committee has. Some of our biggest programs are target and suppression. Again, the research program, the gang incident tracking system, all of this is funded by about 1.8 million dollars, that's either given to us by the federal government or the state.

And our third biggest program and prevention program is project no gangs, which is a prevention program, which Marilyn Mac Dougall is here to tell you about. And it's spreading throughout the county. It's buttressed and helped by a lot of individual cities that have their own gang prevention programs, but it's also a very, very important slice of the mix -- slice of the pie.

I would tell you, also, that you can tell that chiefs are definitely committed to prevention. If you look at the budget of these grants, the budget is pretty equally divided between suppression, research, and prevention. So we're looking at this in all three areas, and we feel that we're at least as far ahead as any other county in the united states. And we feel that we are addressing one of the most severe problems in our community.

So I'll stop here. If there's questions, I'll be more than ready to answer them.

MR. HERNANDEZ: Thank you, chief. I think we had another member of the panel just join us.

Did you identify yourself?

MR. COOK: I think it was Stan Knee.

MR. KNEE: I've already introduced myself.

MR. HERNANDEZ: Oh, you have? I'm sorry. I think the reason I'm confused is that actually we have two panels: the law enforcement and recommendations. And people from the both panels are sitting together -- which is probably okay with me because that will get us through the agenda a little quicker.

So I'll go ahead -- if there's no objection to the 24 rest of the committee -- I'll go ahead and collapse the two panels. I just -- since chief Knee is part of the law enforcement panel, which was the first one, I think what I'd like to do -- if that's okay with you -- is to give the chief the opportunity to give his views from the law enforcement perspective. And then I'll ask Ms. Mac Dougall to go forward, if that's okay with you.

MS. MAC DOUGALL: Perfect.

MR. HERNANDEZ: Okay. Thank you.

Chief, I'm sorry. We were kind of out of order here, but I think it will expedite matters. Thank you.

MR. HOLSTROM: Frank, if you could come on up.

MR. KNEE: Good afternoon. I apologize for being late. One of the things that does not leave a suburban area is traffic, and I suffered that problem this afternoon.

I've asked sergeant Frank Kauffman to join me. My name is Stan Knee. I'm the chief of police for the city of Garden Grove. I have the task -- one, is to review with you the Garden Grove policy on the taking of field photographs as well as the policy on taking or completing field interview cards, which are commonplace in law enforcement services.

And I'd also like to talk just very briefly about the use of these tools as key to the success of our law enforcement efforts. I'll tell you straight up that I will probably fail to be as detailed as I would like to be, in the interest of time; but I would like to, perhaps, generate some interest on your part as to these three things.

At the end of our presentation, I do have some copies, which I will pass out. There are policies -- a copy of our policies, as well as some of the forms, as well as our detailed description of our appeals process for those people who feel that they've been photographed or F.I.'d in error.

Let me start with the importance of the field interview card and the field photograph to law enforcement. Research clearly points out that the police by themselves have virtually no chance of solving serious felony crime without the cooperation of victims and witnesses. Simply put, the number of situations in which police see in progress serious crime is very, very limited in number. The reason for bringing this to your attention is that if we are not on scene when a serious crime takes place, we have to rely on investigative tools and the cooperation of victims and witnesses to solve that crime. And certainly, this speaks well of our efforts in community policing.

Two of the tools we need are the information contained in the field interview card -- and I'll refer to it as an F.I. card -- and photographs that we have taken in the course of our investigations and patrol activities.

The decade of the 80's is referred to by some people and myself included as the most violent in our nation's history. During this period of time, the growth of gangs and gang-related violence has soared. Unfortunately, most victims are from low-income families living in less desirable areas, recent immigrants, and refugees. Again, unfortunately -- and I bring this up for a specific point -- is that these victims do not have the economic resources like, perhaps, those of us in this room, to move out of a blighted area or to seek safer Housing or schools for their children.

In response to this upsurge in violence, police departments have stepped up their efforts at identifying gang members involved in criminal activity; and, thus, greater emphasis was placed on obtaining accurate information and photographs of violent gang members.

In 1993, the American civil liberties union filed a lawsuit on behalf of three teenagers who were F.I.'d and photographed by members of my department. As a result of that legal action, we began to work in close cooperation with the ACLU, and developed, in that process, a model policy on the use of the field interview cards and field photographs, as well as a purge criteria and appeal process. This policy has been widely distributed throughout the united states. And I went to an individual who is responsible, in part, for mailing out this Policy, and he stopped recording the number of agencies that

Have asked for copies of this policy at 100.

Sergeant Frank Kauffman, who is seated next to me, was a sergeant assigned to work with the ACLU in developing a policy. We will now talk briefly about that policy. And, like I said, afterwards we will present you with copies of some of the documents that were developed in that.

MR. HERNANDEZ: I appreciate that. Thank you very much.

MR. KNEE: Frank?

MR. KAUFFMAN: Thank you.

MR. HERNANDEZ: Would you identify yourself for the record, please.

MR. KAUFFMAN: Yes. My name is Frank Kauffman. I'm a sergeant with the Garden Grove police department.

MR. HERNANDEZ: Thank you.

MR. KAUFFMAN: As a result of the litigation with the ACLU in regard to our field F.I. policy, that allowed us to take a closer look at how we were actually doing our job and what the actual purpose of the F.I. was. And what it led us to believe -- as far as the investigators were concerned -- is that the way that the F.I.'s were formulated, they had a lot of circles that we just identified a purpose without giving any specific information for the actual stop of the individuals, nor did it give the actual amount of time that a person was actually detained or stopped for any period of time.

When we took a look at our F.I.'s, we found that a number of them were actually missing information through that particular procedure. Thus, what we had to do is we had to formulate an F.I. card that we knew would both fill in what we would require and develop an equal balance of what law enforcement needs in order to do their work in investigating criminal activity; and also make certain our assurances that we aren't infringing upon the rights and privileges afforded to the people in trying to accomplish that job.

As a result of that, our current F.I. and photo F.I. policies are based on current law related to detentions and consensual encounters. As we have instructed our officers, in the policy -- and they are kind of lengthy, but I will now brief them for you -- F.I.'s -- the officers are instructed that an F.I. should be completed

when you have a named suspect in a crime but no further information is needed.

The second criteria would be as a possible suspect or matches the description of a suspect or a photo for identification or elimination purposes would be needed.

The third would be a minor infraction had been violated, and the individual was warned. And an F.I. card will suffice in place of an actual arrest.

And the fourth is a reasonable belief that a person is involved in criminal activity. And this fourth criteria, of course, is the one where we found most of the F.I.'s were being generated.

We went ahead and defined what reasonable suspicion is or what reasonable belief would be. That would be circumstances that would cause a reasonable police officer to believe that a person is or is about to become involved in criminal activity. We also went and defined what the differences were between detentions and consensual encounters.

In order to make the F.I. card a good tool for the investigators, there should be a brief narrative, something to give them an idea of what it was this person was doing that would prompt the officer's actions. Therefore, we required that they have to -- in the narrative portion, we gave five lines to do this. They would write out what their reasonable suspicion was of the activity which would have to add up to what would be a detention.

Now, a person can be F.I.'d under the circumstances of a consensual encounter. But during that type of a contact, if an individual at any time said that they no longer wanted to speak to the officer; they were through; they wanted to leave; the F.I. card would not be completed anymore at that point in time.

We also added a few additional items, such as the time, the start time and ending time for the actual detention so we could monitor how long a person was actually being detained and whether this was a detention or a consensual encounter. We also changed some wording where we didn't label individuals. There was a concern of us labeling individuals as associates to gang members, but instead we used the word "acquaintance."

The F.I. card itself, at this point in time, as our current policy states, is reviewed by a supervisor. They must be turned in by the end of an officer's watch. They are

reviewed by the supervisor who has to make the assurance that all the boxes are completed, including the times. And also that in the narrative portion, that the reasonable suspicion has been articulated and/or that the words "consensual encounter" with a brief description is included.

If for some reason the F.I. card happened to get by to where it was submitted without a sergeant's approval, there are two other processes where it doesn't get any further. The F.I. cards are submitted to our stats in our records bureau, who enters them into a computer database. And if any boxes are missing -- and they are given these instructions -- if there are any boxes missing, including a supervisor's serial number, they are returned for the supervisor signature on it and for any corrections that need to be made.

I don't know of any that have actually gone beyond our stats bureau; but there is one other step they go to, and that is they ultimately go to the intelligence officer who also reviews every F.I. card. And he is also the one that does the purging process. And if he finds that one of these areas is missing, again, it would be returned to the supervisor.

And in regards to the actual photos, photographs may be taken under any circumstances when an individual knowingly and voluntarily gives consent in writing. We have a sticker that would be applied to the back of the photo, polaroid photo, where the individual's signature and the date and the time of the stop goes. If it is a detention, which is based upon reasonable suspicion of criminal activity, of course, based on law, such a signature is not required; the consent is not required. But this photo must serve some legitimate law enforcement purpose related to detention. If you have a lawful detention, but the criminal activity is dispelled prior to the taking of the photograph, then the photograph will not be taken.

Also, during a detention or a consensual encounter, if at any time an individual is questioned about gang affiliation, if this individual denies that they have any affiliations or associations to gangs, the officers may not make any further inquiries in regards to their involvement with gang activities. They can go on with the regular procedure of the stop, but any further inquiries in regards to any gang affiliations would be stopped at that point in time.

Our F.I. cards are purged -- or the F.I. data is purged every two years. If they are gang-related, they are purged every five years.

In the process of putting this policy together, we also wanted to find a way that if an individual was F.I.'d or had their photograph taken and felt that there really

wasn't any particular reason or they didn't like the fact that this was done, that we wanted to set up a process whereby they can appeal the purging of that before the two-year period. And a copy of this is posted in the lobby of the police department. It has also been forwarded to the school administrators within the school districts of the city of Garden Grove. Individuals that feel that they would like to have this purged before the two years can fill out and complete a form making a request for the purging process where they are given an opportunity to meet with the police chief and express their concerns as to the field interview and the photo; why they feel it should be removed from any records before the two years.

After doing so, the chief then will -- well, initially the person has 30 days after the contact to do this. After the meeting with the chief, the chief has 30 days to respond to whether or not this will be purged prior to the two years.

If an individual is told or informed that the F.I. will not be purged, that it has legitimate law enforcement purposes and should stay for the two-year period, there is one other process. And they can resubmit this request to be reviewed by the chief's forum -- three members of the chief's forum, which is a community group that will take a look at the circumstances of the F.I. and they would make, then, a recommendation to the police chief, who still has the ultimate decision on whether it should be retained or not; but the citizens group has the opportunity to review it and, again, make that particular recommendation.

That pretty much sums up the policy for F.I.'s and the photos. If you have any questions, I'd be more than happy to answer them.

MR. HERNANDEZ: I think what we're going to do is just get all the statements, and then we'll take questions after.

Ms. Mac Dougall?

MS. MAC DOUGALL: Thank you. I'm here representing the Orange County chiefs' and sheriff's association and their program known as project no gangs.

The association has consistently included education and awareness as an intricate part of their goal and mission. Through the creation of project no gangs and independently through their individual city programs, this organization has developed and implemented cutting-edge programs which address the needs of the community at large as they deal with the issues of violence and gangs. With the creation of project no gangs came an intensified

approach of gang awareness and education programs throughout the entire county of orange.

I'm also a credential school teacher. I taught public school for 25 years and was brought to handle this program because of my background in education. Educationally, we know that to have long-term results for programs which address social issues, we must start these programs at a very young age.

To align themselves with this educational philosophy, the Orange County Chiefs and Sheriffs Association in cooperation with drug use is life abuse, the Orange County department of education, the state department of education, and UCI created a curriculum for upper-age elementary school children called "positively no violence." This program is disseminated in booklet form throughout the county of orange to fourth and fifth graders; and it's available to all cities, all Schools: public and private.

This program supports programs such as D.A.R.E., positively no drugs, and other programs which have been created by the Orange County department of ed. And they're an intricate part of the curriculum, which is infused to cover all curricular areas throughout the educational community.

Additionally, project no gangs stat has raised community awareness through their gang prevention presentations. Since they were -- since project no gangs was formed, to date, we have done over 500 antigang presentations to businesses, parent groups, educators, homeowners associations, and community-based organizations throughout the county. Similar presentations are made by other agencies in the county.

The probation department utilizes their target teams and suppression units in a group called "empowering communities against gangs." In this, they use their probation deputies, as well as staff, to make presentations to residents and communities, upon request and also when the staff feels there's a needed specific area to help them address.

In the city of Buena Park, they've established a very innovative program called "parent project." It's funded by their development block for grant program. The program is provided free to all residents of Buena Park. The program provides information regarding the dynamics of parenting, the juvenile justice system, and practical and emotional needs of the family units. There's an emphasis on building self-esteem, not only for the child, but for the parents involved. They Work on family reunification and the family's crucial role in the rehabilitation of a child who has already become involved in dangers and/or illegal behavior.

A second program in Buena Park is called P.A.Y., -- or positive avenues for youth -- a gang prevention project designed to provide positive alternatives to gang violence, for the use in the community. The P.A.Y. program intends to combat gang membership and utilizes a multidimensional approach to deter the use of experimentation with gang involvement. They provide positive role models that are provided to the groups to encourage them to develop social and coping skills.

Fullerton P.D. has a program that's called C.U.F.F.S., community united for Fullerton safety. This includes the Fullerton school system, the department of ed., 26 community-based organizations, and the police department. They also include P.A.I. -- or Peer Assistance Leadership, conflict resolution training and inner ethnic relations and violence reduction programs as a part of their programs to address gang Violence.

The City of Anaheim has developed a unique partnership with Disney. Through Disney, they provide ice and street hockey for youth in the inner city areas. The department's R.E.A.C.T. -- or Rental Enforcement and Crime Training -- educates landlords and apartment managers and owners in a wide variety of topics which focus on these groups on creating safe environments for all their tenants.

The sworn officers also organize and instruct the youth in various athletic activities, which provide the community with positive alternatives to gang involvement.

Representatives from well over 100 agencies in the south Orange County area attended their regional gang steering committee. The participants gather monthly, through the school year, to share programs which are making a difference in the south part of the county. The meeting also includes training sessions for the participants which help them be more in tune with the needs of the average student of the south Orange County area.

Students in our high school population have created a publication called "the quest." It is written and edited by students, and it is disseminated to all high school students both public and private twice a year. They write the articles. They choose the topics. And they address issues about gangs, violence, and drugs.

Other special programs include the "proach," probation department's Baley Flats program. It is conducted twice a year. Selected youth attend a mountain

retreat where they work with probation officers and community volunteers to provide good sound experiences which let the kids make good choices on how to get out of the gang involvement.

In order to provide all of our residents and community-based organizations with specific community programs available to them, there's a publication called Frontline. It, also, is printed twice a year, and it's available to Orange County residents. And we have an (800) information line, which is staffed daily, for residents to call regarding concerns, questions, and availability of programs and resources.

The programs that I've mentioned are just a mere sampling of what is available throughout the county of orange on a continuous, ongoing basis. All residents are given multiple opportunities to access programs which address the needs of the community, both ethnically and diversely socially at all levels. We feel we are meeting the needs of the Orange County residents as they want to know more and learn more in how to get along well and have programs that address gang violence. Thank you.

MR. HERNANDEZ: Thank you very much. Who is last?

MR. DU CHESNE: Mr. Chairman, my name is Loren Du Chesne. I'm the chief of the district attorney's bureau of investigation, also a member of the gang strategy steering committee.

I've been asked to speak about what is known as the great system, also soon to be known as the cal gang system. The great system as we know it and as I will describe, to us, is basically distinct. As of this month, it is being transformed into a statewide system under the auspices of the California attorney general and with an entirely new hardware and software. The great –

MR. HERNANDEZ: Excuse me. Does that mean that the attorney general will manage this system for the state?

MR. DU CHESNE: The oversight -- perhaps it would be better if I may --

MR. HERNANDEZ: Okay. Because we read what --

MR. DU CHESNE: I understand where you're going. Now, I think it will make it a little easier to understand if I take you through the history for just a moment.

MR. HERNANDEZ: All right.

MR. DU CHESNE: The great system is presently housed and overseen by the district attorney. It's interconnected with 27 other law enforcement agencies in our county through a PC modem system.

MR. HERNANDEZ: Could you get the microphone over to Chief Du Chesne, please?

MR. DU CHESNE: Is that better?

MR. HERNANDEZ: Yes. That's much better. Thank you.

MR. DU CHESNE: As I said, it's a PC-driven system interconnected to 27 agencies, with the district attorney having the central node. Presently, there are around 20,221 records in the system. The great system stands for gang recording and evaluation and tracking system, and it's been in Orange County since 1992.

Presently, there are seven nodes in the state, and Orange County being one of those seven nodes. The oversight -- getting to your question more specifically -- the oversight has, for a number of years, been an organization called the California node -- I'm sorry -- California Gang Node Advisory Committee with an acronym of "CGNAC." Cgnac is comprised of the node coordinators from the seven great systems in the seven counties. Members of the attorney general's office and members of the California commission -- I'm sorry -- the office of the Criminal justice planning -- those three agencies comprise the CGNAC oversight committee. They meet on a quarterly basis and establish policy that is the oversight of the seven great nodes.

Now, as of this month, the funding has been secured through the California office of the criminal justice planning commission; and that funding is going to be purchasing an entirely new system. And that system will still be overseen by the CGNAC committee. All of the ramifications of this merge and change have not been totally worked out; but at this point, that new system, the cal gang system, will operate under the auspices of CGNAC and will basically adopt the standing procedures with, perhaps, some modifications as it becomes elevated into this statewide system.

Some of the issues that occasionally come up would be how we define gangs for the submission of data into either the great system or the future cal gang system. The definition of a gang comes from the California street terrorism enforcement and prevention act known as the step act of 1988, and that is

found in the penal code section 186.22 of the California penal code. And it's fairly definitive in that section. That definition is the same definition that the great system or the cal gang system will operate off of.

What's interesting about our system -- and I can speak primarily for our system, since we've had five and a half years of oversight of our system and involvement. Our system contains, like I said, over 20,000 gang members, at this point in time, or suspected gang members. 81 percent of those entries are self-admitted gang members. So the lion's share -- a great proportion of the members in the great system are admitted gang members and in many times over.

I think it's important to point out that this system is accessible only to law enforcement. It is a law enforcement criminal intelligence system focusing on gang members and suspected gang members committing crimes; therefore, it is somewhat discriminatory in the method in which members are intervened in the great system. And, likewise, it's somewhat protected and controlled in terms of how information will get out of that system; restricted only to law enforcement the same as any other criminal intelligence system or criminal record system in the state. It has very tight controls.

The subject of the photographs occasionally comes up. 20,000 gang members, there are approximately 1,000 photographs in the great system in Orange County. However, none of those photographs reside on the D.A.'s node on the central node. They're not accessible to any other agency, other than the agency that takes the photograph and submits the photo. So that would be 27 agencies that would have a small number of photos in their system, but it's exclusive only to their system and not transferable or accessible to other agencies, at this time.

The records are protected from the public and from other indiscriminating inquiries and exposure by California government code 6250, which is the public records act. And the general protection comes under the auspices of any other type of criminal intelligence.

Purging is an issue that often comes up. The system requires -- regulations require a purge every quarter. In Orange County, we, at this point, have purged 6,637 entries since the inception of our system five and a half years ago. On a quarterly basis, we continue to purge and will continue to purge.

I have numbers and some Breakdown and statistics. I think you may have had some exposure to those earlier. Perhaps I should leave the numbers to any questions or discussions, unless you want me to run through those again.

MS. BUITRAGO: It might be worthwhile.

MR. HERNANDEZ: I think it would be better.

MR. DU CHESNE: Okay. I'll try to figure out those that might be significant for you. Certainly, the first and foremost number is the total gang population. As we see it today -- and it changes almost on a daily basis -- there are 20,281 entries. I've already said that since the inception of this program we've purged 6,657. The remaining would be the 20,000 number. The number of photos presently residing on all the agencies is 1,039. I have Breakdowns from an ethnic standpoint.

Do you want me to cover that also?

MR. HERNANDEZ: Yes, please.

MR. DUCHESNE: Okay. As we speak today -- and again, it can change almost daily or weekly -- there are presently 14,732 Hispanic gang members; there are 2,586 Asian entries; there are 1,521 white entries; there are 898 black entries; there are 360 of what we call pacific islander entries; and there's 124 with unknown ethnicity.

As far as the Breakdown of actual gangs, rather than gang members, we have 165 identified Hispanic gangs. We have 89 that are somewhat hybrid or that are multiple ethnicity; therefore, we just call it multiple. There is no specific ethnic identity to that particular gang, and it's 89. There are 81 identified Asian gangs. There are 25 identified white gangs. There are 13 identify black gangs. There are 10 identified pacific islander gangs. The males comprise 90 percent of the 20,000. The number of males is 18,214; females, 2,007. Basically, the comparison of the number of entries in the great system with the entire population comprises 8 percent of our total population -- I'm sorry -- it's .8 percent. Excuse me.

We have, as a gang steering committee, recently attempted to address the issue of consistent definition and consistent information to both our police officers as well as the public, as it pertains to defining gangs and defining "great"; what it is and what it isn't; what its purpose is.

We are in the final stages of finishing a brochure which will have the effect of being available to educate both law enforcement officers and all members of the public. This brochure is, virtually, weeks from being printed. It's in its last approval stages.

I've talked to the president of our association, and we would be happy to share this draft with this committee. It is not a public record at this time. We would ask you not release it until we can do the final draft and do the final printing; but for the benefit of this committee, I'd be happy and we would be happy as the association to share with the five

Of you a copy, which addresses some of the issues that I covered and, particularly, in terms of the definition of street gangs, the great cal i.d. system, and some of the other definition issues including legislation.

MR. HERNANDEZ: We would appreciate that, chief. And we will mark it as a draft. And before we go to print, we'll call you to obtain the final draft of the document.

MR. DU CHESNE: So I'll stop there. I'm sure that there are going to be questions later, but that gives you some overview and sets the stage for you to ask some questions.

MR. HERNANDEZ: Yes. Ms. Fua?

MS. FUA: I have a question for sergeant -- I'm sorry. I don't know your last name. Kauffman?

MR. KAUFFMAN: Kauffman.

MS. FUA: Since the litigation of the ACLU settlement, and you now have this procedure in place, how successful do you feel your ability to deal with the gang problem is?

MR. KAUFFMAN: I think that we are still successful in being able to deal with the gang problem. It has not really created much of a problem at all.

MS. FUA: And how many other agencies have adopted this program?

MR. KAUFFMAN: As chief Knee said, we stopped counting after 100 requests from agencies.

MS. FUA: That's different. They're asking for the program. But how many have actually adopted the program?

MR. KAUFFMAN: That, I'm not certain of.

MS. FUA: Do you know, in Orange County, how many have adopted the program?

MR. KAUFFMAN: I'm not certain of that either.

MR. HERNANDEZ: Ms. Buitrago?

MS. BUITRAGO: This question is for Mr. -- I'm probably going to mispronounce your last name -- Du Chesne?

MR. DU CHESNE: Du Chesne.

MS. BUITRAGO: Du Chesne . Will the pamphlet that you're talking about include a description of the specific criteria that is used to identify gang members?

MR. DU CHESNE: It does include a detailed description of the criteria in paragraph form. Yes, I think it will be pretty self-explanatory and will, for the average laymen, provide the information that describes the criteria that you would find in a little more legalese elsewhere.

MS. BUITRAGO: I'm just a little bit confused because earlier this morning, I believe, one of the speakers from the hlu talked about how they talked -- I believe the chair of the CGNAC committee -- regarding whether there were stabilized criteria adopted. And they were told they had none; that there were not stabilized criteria. And if those are going to be included in this, does that mean that you do have them or don't have them?

MR. DU CHESNE: That's inaccurate. There is statewide criteria. And CGNAC, for years, has been the oversight committee of all the policies of the great system and will continue with the new cal gang by ocjp and the attorney general, and the seven node coordinators, and any other oversight that might be built into this new system. But at the present time, that is the oversight.

MS. BUITRAGO: So in other words, the chair made a misstatement?

MR. DU CHESNE: I wasn't here for that statement; but if that statement was made, that's inaccurate.

MS. BUITRAGO: And related to -- just one more question related to that issue. And that is: what happens to a group in the node who doesn't follow or maybe it's not using the standard uniform criteria? Are there any penalties, or how do you deal with someone who may not -- you know, particularly an agency who may not be listing the standard criteria? How do you deal with that?

MR. DU CHESNE: Oh, yeah, there are definite sanctions in the contract that's signed, in order to enter the great system, and there are sanctions all the way to suspension.

MR. HERNANDEZ: Mr. Erler?

MR. ERLER: I'm a little confused now about this statewide standard, because we heard earlier that different departments -- police departments in Orange County have different standards with respect to photographs, for example.

Is there a uniform standard in this county as to when to take photographs and not to take photographs or what the criteria might happen to be for taking photographs?

MR. DU CHESNE: Again, I didn't hear the testimony this morning, but photographs, I think, have been covered. There are two ways you can take a photograph -- or actually three ways: one, if a person was in public domain and there's no expectation of privacy in public. So putting that aside, there's a voluntary photo if someone is contacted on the street, and there's and a voluntary interview a voluntary submission to the photograph. That's one way. And the other way is -- the only other way is if there's a reasonable suspicion -- as we've articulated a few moments ago -- that the person is either about to commit a crime or has committed a crime or is committing a crime. And at that point in time, the question is: is there a reasonable suspicion to detain? And if there is a reasonable suspicion to detain, then, it follows that you can take the photograph.

Now, the definition of reasonable suspicion -- as entered in 200 years of constitutional law -- is obviously very complex.

MR. ERLER: No. We understand. I understand that. I think we're clear about that. But some other members of some of the other panels read departmental

regulations from different departments that gave the different criteria with respect to what constitutes a gang member; what constitutes an Associate gang member; what constitutes an affiliate gang member, and so on and so forth. So there are no uniform standards in that regard?

MR. DU CHESNE: As far as great goes, there is. Anybody submitting a suspected gang member into the great system has to subscribe to our criteria and the criteria of CGNAC, which is a statewide standard and will remain a statewide standard as it goes into the cal gang system.

MR. ERLER: Okay. Then we must have gotten some misinformation earlier. But let me ask you something about -- did you mention that there were 1,000 photographs in the Orange County node?

MR. DU CHESNE: In the nodes in Orange County, in the 27 nodes, a total of 1,000 photographs, none of which are accessible by the D.A.'s node, which is the seven nodes.

MR. ERLER: Okay. Those are only for those who subscribe to the nodes in Orange County, then?

MR. DU CHESNE: They are only available to the individual departments. They put them into their own PC.

MR. ERLER: Right. I understand that. Now, you say that there's something in excess of 20,000 gang members in Orange County.

MR. DU CHESNE: In the Orange County great system, there are over 20,000 entries, as we speak.

MR. ERLER: So you have photographs on about 5 percent or slightly less than 5 percent?

MR. DU CHESNE: Yes, we do.

MR. ERLER: Do you have any ethnic Breakdown for the photographs?

MR. DU CHESNE: No, I don't.

MR. ERLER: So, then, this is a fairly small number of photographs compared to the number of gang members in Orange County, then? I mean, most of the concern that we have heard in other panels about the system of

photographing, possible rights violations with respect to the photographs and so have had no statistics with respect to the number of photographs and exactly how they were used.

Now, when this goes to the statewide system, will the photographs be accessible to anybody on the statewide system?

MR. DU CHESNE: That's being considered in the new software, in that there's no -- I can't answer that at this time. It's being considered. It's desirable, but it has not been decided at this point.

MR. HERNANDEZ: I'd like to ask a question here.

In the previous panel, there were concerns among the panels who were representatives of various ethnic groups in Orange County that people were being targeted in specific neighborhoods and that certain ethnic and racial groups were being targeted.

How do you go about targeting? How is this process decided upon, and what kinds of instructions are the street officers given after the gang steering committee meets? Can you give us some kind of a background on how that works? Any one of the chiefs.

MR. DU CHESNE: The gang steering committee --

MR. ERLER: Could you speak into the microphone, chief?

MR. DU CHESNE: The gang steering committee is an overall administrative committee. We don't set individual police department policies. So each individual department could --

MR. HERNANDEZ: Is controlled by their city.

MR. DU CHESNE: Yeah, but they don't -- it's not an advisory group, or we don't dictate policies to any individual city or county or anything else.

MR. HERNANDEZ: So they could decide not to.

MR. DU CHESNE: Ours is an administrative group that we formed on our own, and we use it to cooperate more and things like that.

MR. HERNANDEZ: Now, what about the charge that was made by some of the people on the forum that individual ethnic groups are being targeted? I notice that the overwhelming majority of the people in the gang database are Hispanic and followed by Asian. And we had members of the panel – how would you respond to that charge?

MR. DU CHESNE: I might tell you that probably the great system's database directly reflects the composition of the community in Orange County. I'm not sure of the demographics, but I do believe that the Hispanic population is growing rapidly. And so that's all we have. And you'll notice there are very few black gang members in there. And we have very few black gangs, so we simply are reflecting what's out there in the community.

MR. HERNANDEZ: Ms. Fua?

MS. FUA: Chief Du Chesne, I just want to clarify something about this criteria. Are you saying that CGNAC – whatever – obviously, I haven't drank it; right? – are you saying that this criteria has been around for a number of years and that every agency that is part of great has been, you know, responsible for adhering to this criteria? Is that my understanding of what you said?

MR. DU CHESNE: That's correct.

MS. FUA: And how long has this criteria been around for?

MR. DU CHESNE: It's been around as long as I've been associated with great, and that's five and a half years.

MS. FUA: Is this criteria public?

MR. DU CHESNE: Yes. And it's been released to the ACLU a number of times in the discovery activities through the several legal systems. In fact, I was involved in discovering this very material as part of the public record of great several years ago to the ACLU.

MS. FUA: The ACLU testified today that they talked to a member of CGNAC, and they did not – they said that they didn't have a standard criteria. So, obviously, there's some kind of confusion, miscommunication, whatever. To the other chiefs that are here, I ask the question of whether or not the Garden Grove program has been adopted. If you guys could answer that, I would appreciate that.

MR. KAUFFMAN: For the city of Garden Grove?

MS. FUA: The other cities, if they've been adopted; and if not, why not?

MR. MC KINLEY: Pat Mc Kinley, chief of police of Fullerton. Although we haven't adopted quote/unquote those policies, I think if one looked at the system, nothing changed a great deal. If an officer has a reasonable cause to believe that a person is engaged in criminal activity, they will write a field interview card. So when you ask -- perhaps you could tell us what you think or what problem you have with the field interview cards, then maybe we can respond to that.

MS. FUA: Well, from the testimony that was given today, it sounded like there were huge problems, in terms of due process, in terms of the field card and the photographs; and that the ACLU sued the Garden Grove police department and had a settlement agreement -- which we all recognize is a compromise -- but seems to have some procedural protections for people accused of being gang members.

And since sergeant -- I don't know his last time -- testified that the program has worked as well with these kinds of procedural probations, I'm just wondering why other police departments haven't adopted this, because it allowed -- it balances between, you know, individual rights and community safety issues. So that's where I'm coming from.

MR. MC KINLEY: Okay. In answer to your question, I think we all follow something very, very similar, as far as -- we don't just willy-nilly stop people on the street and just write an F.I. card. I mean, there has to be some reason for doing that. And it usually has to do with criminal activity.

MR. HERNANDEZ: Let me just jump in here, because this is where I think maybe using this example we might be able to get clear. I think chief Knee -- sergeant -- I'm sorry -- referred to a possible -- I think it was chief Knee -- a possible appeal process in the event that -- say, I'm a parent, and my youngster has been stopped. And he comes home, and he says, Dad, my picture was taken, and they filled out a card on me, and they let me go.

And I say to him, well, what happened? And so on, and he says, well, I just got stopped. They asked me a bunch of questions. I answered the questions. They signed this thing. I didn't know what I was signing. They took my picture, and they let me go.

So I call the Fullerton Police Department and I say, I would like to find out what happened to this card on my son; what happened to the picture; what's going to be done with the picture; and if the card is going to be held in a database; or if the picture is going to be held in a database, I would like that picture and the card taken out of your database because my son is not a gang member.

Do you have a policy exactly the same as the Garden Grove police department with respect to appeals?

MR. MC KINLEY: Well, it's difficult to say it's a policy. I think all of us, every chief I know in the county, is open to any community member calling them and talking to them about any problem they may have with something that occurred in the field. We receive those calls every day, and we respond to them in time.

If it would help, I have what Fullerton's written policies regarding identifying a gang member, when we photograph, and when we photograph somebody who is a gang member. And if that would help, I could also do that.

MR. HERNANDEZ: I think that would, but I'm kind of -- because I'm struck by the fact, for instance, that if I get a TRW on myself that comes back not very good, I have the right as a citizen to send something to TRW and make a notation in the database that says, you know, I was in the middle of an earthquake. I mailed it, but the post office caved in; and that's why my payment was late one month or whatever.

Is there a uniform -- and I think this is what we're talking about in terms of a systematic set of policies that all citizens across Orange County could reference. So that -- for instance, is there a uniform appeal process? So if I'm in Fullerton, I would appeal the same way that I'm in Garden Grove; the same way that I would be in Brea; or the same way that I would do it in Los Alamitos. And I think that's where our confusion is. Either there is a standard that everybody adheres to, or there's a lot of individual departmental standards. And what it sounds like to me is that there are departmental standards.

MR. MC KINLEY: Chief Knee would be able to address that better. He's been in the middle of this whole thing.

MR. KNEE: Yes, I have been. Let me say that if you go from the east coast to the west coast, you run into thousands of police departments. All of those police departments have practices and policies that are written just a little bit, perhaps, different from the neighboring jurisdiction.

When, for instance, an agency asks for our policy on field interviews or for photographs, there's no doubt in my mind that 99 percent of them are not going to take that policy and simply change the name from Garden Grove to Santa Paula, little river city, or whatever it is. What they will do is put it into their language and fit it into their own Organizations.

With regard to appeal processes, I think that in some departments those are handled via, perhaps, the citizen complaint process. Some of those are handled with a referral to a specific person in an organization. Whether in the literally hundred plus policies that we have mailed out, has anybody taken the time to simply replicate ours, I don't think that they have. Not every police department has a chief's forum, a group of citizens that advise us, to be available.

But I would think that in Orange County, if you collected all of the policies on F.I.'s and photographs, you would find them very, very similar as to when we can legally and appropriately perform those tasks. And I think that that is one of the significant things of the settlement with the ACLU.

MR. HERNANDEZ: Okay.

MS. REYNAGA-OLSON: In addition to that, I just wanted to find out, you know, you were talking about maybe -- he had mentioned about possibly somebody calling and finding out what the process to appeal is. What about when someone is actually stopped, detained, and they're filling out the field interview cards or they're having their photograph taken? At that time, why aren't they -- or are they -- already being notified and given some type of information on how to appeal if you don't like what we are doing or this is what's happening to you? You have the right to appeal it, just like they're given the rights if they're arrested, you know, they're not supposed to say anything, you know. And they're given their rights. Or on something like this, they're having their photograph taken; a card is being filled out with information. Isn't it their right to know immediately, at that point, okay, well if you don't want to -- or this is going to go into a system. This is what you can do about it.

MR. KNEE: I anticipated that question, so I went down to our gang enforcement unit and talked with the sergeant and several of the officers that work there and to several of the field sergeants.

And the across board, what happens is when an individual says, this is b.s. I'm telling you that, you know, you have no reason to stop me. And right on down the road, across the board, they're told, go to the police department, and there's a process by which you can talk to the chief concerning the photograph or the F.I.

Unfortunately -- perhaps unfortunately, but the situation on which the individual stands mute, he's probably not and -- well, I know for a fact he's not going to be advised of the process. However, through the training process when we implemented this program, we train key people -- actually, we train everybody in the organization on this including civilians; so that if somebody does call and gets my secretary or calls in and gets a records clerk, they know what the policy is and what the process is; and they would be made aware of That policy. But no --

MR. HERNANDEZ: Could we hold on just a second? The court reporter needs to change her paper.

MR. HERNANDEZ: Mr. Erlen?

MR. ERLER: I have a similar question, and I'd like to hear from all of the chiefs that are here. We heard from other panels there seems to be a widespread perception in the community that -- quoting here from more than one witness -- that there's "indiscriminate photographing." And I would like to know: what are the instructions to the officers? What I've heard here so far from you is no photographing unless it's based upon consent or incident to a valid detention. Is this the instruction that you've given to your officers, and is there any other kind of photographing that is allowed by department policy? Anyone? I'd like to hear from all chiefs.

MR. MC KINLEY: Perhaps I can get started out again. I'm Pat Mc Kinley, chief of police of Fullerton. I'd like to go over the guidelines. The following guidelines are used in photographing any suspected juvenile or adult gang member regardless of ethnicity: when the individual is suspected of being a gang member for any reason listed in section 3 and that individual is arrested for any reason -- obviously, we'll do a want on them -- legally detained and consented to a photograph or contacted by consensual encounter and agrees to be photographed. To document the manner in which the photograph was obtained, a label is attached to the photograph. If the photograph was obtained in any manner not within the parameters described, it is not used during the course of the criminal investigation. Valid photographs are retained

until a new one is obtained or until the individual is no longer suspected of being a gang member.

And we have a sample of the label that's attached to the back of the photograph. It has the name; the date of birth; the moniker of the gang; whether he's known, self-proclaimed, or suspected; the date of the photograph; who it was taken by, the reason it was taken. And that's how we handle it.

MR. ERLER: Any other?

MR. HOLSTROM: You want me restate the --

MR. ERLER: No. Well, if you can say you have the same policy, I would like to hear that as well.

MR. HOLSTROM: Frank, why don't you summarize, if you can, our policy on photographs.

MR. KAUFFMAN: The criteria that's been established for our policy on taking photographs under any circumstances where a person knowingly and voluntarily gives consent in writing -- and that is the footnote on the sticker on the back of the actual polaroid card itself -- the photograph is taken without the consent or knowingly, it's done during a detention based upon reasonable suspicion of criminal activity. The photo must serve a legitimate law enforcement purpose related to the detention.

And, again, as I stated, if you have a lawful detention but criminal activity is dispelled before the photograph is actually taken, then the photograph will not be taken unless there's consent given at that time.

MR. ERLER: Was there another one?

MR. COOK: I might also add we have almost the exact same policy. Our policy has been in effect for some time prior to the incident in Garden Grove, but it's relatively the same. We require written consent. We also have policies that no one can be posed in a derogatory manner and on, and on, and on, and on. And we put this on a special form and send it in.

I would also say that if there is a complaint, that everybody in the department has been trained to refer them to the detective lieutenant; that he will answer the complaint. They can complain all the way up to me. We will, at that time,

give them a citizen's complaint form. That has been in effect in law enforcement for the last 30 years, and it's still very valid and still will get the same type of investigation. If they're not happy with our investigation, they can go to the FBI and file a civil rights complaint. After that, they can go to the attorney general or the district attorney. So is are just one level after another if you want to make a complaint. That's not a problem.

MR. HERNANDEZ: I'd like to ask just a quick question. I think it's to chief cook because you're with the Chiefs of Police and Sheriff's Association. Is that an umbrella?

MR. COOK: Yes. That's our association, and it covers every jurisdiction in Orange County.

MR. HERNANDEZ: I was just wondering how many minority or women chiefs of police are there in the county?

MR. COOK: How many women are involved in law enforcement?

MR. HERNANDEZ: No, no. I wanted to know how many -- it's a serious question. How many African American, Latino, female chiefs of police are there in all of the jurisdictions. And I figured you would know since you know all of the chiefs of police in Orange County.

Are there any female or minority chiefs of police in the county of orange?

MR. COOK: There are.

MR. HERNANDEZ: Chiefs of police?

MR. COOK: Yes. I think Kathy Stanley is a police chief, and there are several others. Now, are you saying are there minority people or are there women?

MR. HERNANDEZ: No. Minorities and women. So how many total police chiefs are there in the county of orange?

MR. COOK: 22 chiefs.

MR. HERNANDEZ: And of those 22 chiefs, how many women chiefs of police are there?

MR. COOK: Well, this is something that's kind of totally unexpected, but I would say perhaps one.

MR. HERNANDEZ: And how many African American, and how many Latinos, and how many Asians? Do you know of any Latinos, any Asians, or any African Americans among those 22?

MR. COOK: Again, you're asking me something that I'm going to --

MR. HERNANDEZ: Could the audience please -- I'm not asking this to try to trip anybody up. I just wanted to know because I think the observation was made that the county of orange is increasingly becoming more and more minority. I think that testimony was given. And so in light of that, I wanted to know was the growth in the population reflected anywhere.

MR. MC KINLEY: Wait a second. I think I can help you,

Mr. Chairman. The last Hispanic chief we had was Manny Ortega. He just recently retired from being a chief. He was replaced by a profile like us. There's one woman, and I think the rest are the entire list.

MR. HERNANDEZ: Thank you very much. That answers my question. Ms. Buitrago?

MS. BUITRAGO: Actually, I have two questions, and they're kind of unrelated. One is for Mr. Du Chesne and that is -- I don't know if you're familiar with a study that was done or a presentation that was done by the general accounting office in 1992, which is approximately 5 years ago. And one of the things that the study talked about was the fact that out of 181 records 69 percent of those records did not show exactly what kind of criteria was used to identify the individual as a gang member. And related to the questions that I had asked you before in terms of do you have criteria in assuming that the confusion is cleared up and that you do have criteria, how can you implement to make sure that the criteria are, in fact, being used by the members?

MR. DU CHESNE: Well, that question -- I'll certainly answer it -- but the question leads to a couple of questions. I'm not aware of that study. I'm surprised that I'm not and that it hasn't come to my attention, but I don't know if that was done in California because there are great systems in other States.

MS. BUITRAGO: It was done in Los Angeles.

MR. DU CHESNE: I am not familiar with it. I can tell you that in the Orange County system, which is the process that is in place for all the nodes, that the same criteria applies; and the computer program that's providing the great system has 35 fields. And you have to be very clear and explicit on which of the five criteria that you designate for the entry.

And it's audited and it's completely -- every time someone makes an inquiry or makes a change or puts some piece of information in the system, there's a very complete audit trail. I have some with me, but -- they're not public records -- but I'd be happy to -- under controlled circumstances -- share it with any of you, perhaps, at a Break to show you how close the control is.

But to answer your question, as far as Orange County and as far as the seven nodes and as far as the way the system is supposed to work and the way it works in Orange County, there's a very controlling computer program which requires very precise input of information as to why somebody is being entered. And when you change from one category to another, you show that the change is made on what date and why and what information was provided to make the change.

For example, I have a sample or two with me where the individual was arrested in the company of a gang member, and then the gang member codefendant told the officers that the person arrested with him was a jump-in gang member. So that person would be entered in there under the category of not self-admitting; but the fact that there's been strong suspicion plus cooperation from an independent source -- that being the codefendant -- that he's a jump-in gang member, and later that gang member admitted that he was a gang member many times over so that that classification would go up to the highest, which is self-admitted.

So all of that is completely documented in every record, all 20,000 records in all cases. So there's no room for error here unless somebody is just ignoring, in some location in the country, the prescribed regulations.

MS. BUITRAGO: My second question and this will be my final question, and that's directed to Ms. Mac Dougall. And I'd like to maybe have an idea of the kinds of names of community organizations, particularly minority community organizations, organizations that represent minority communities, that are part of the preventive aspect of the gang fight.

And secondly, in terms of your own staff for the project, what's the kind of diversity that you have?

MR. HERNANDEZ: Can I just -- before you finish answering that question, I've got a plane to catch. And so I'm going to -- what I'm going to do is excuse myself. Luz Buitrago is the cochair of the committee, so I will turn the gavel, so to speak, over to you.

And just on myself as chair, I'd just like to thank all of the chiefs for being here today, and thank you very much to your testimony and your cooperation between this committee. And we very much appreciated it, and I just want to thank you again. Thank you.

MS. MAC DOUGALL: To answer your first question about the ethnic diversity of the staff that make the presentations out of the project no gang section, we have, specifically, two Hispanics and a woman of Asian descent. We give -- our programs are offered in her language. She speaks Chinese, but we also have the ability to get Vietnamese translators --
Excuse me.

Last month I did a program where I was versed in Spanish and Farsi. It took about three times the time, but we did cover the entire material that needed to be covered. We reach all ethnic groups throughout the county. We are in intercity groups. We go to P.T.A.'s, parents organizations, community-based organizations, schools, churches, outreach programs. We do approximately 50 programs a month at various times of the day and night, and try to -- whenever they want us, we try to be there to meet their needs. We will go to as few as two; we've had as many as 500. The ethnic diversity is as diverse as our county.

MR. BUITRAGO: Ms. Fua?

MS. FUA: I have one quick question to Chief Du Chesne and then a general question for everybody in the panel.

My question to you, Chief Du Chesne: is what percentage of the 20,000 people that are on the Orange County great have ever been arrested?

MR. DU CHESNE: Approximately 50 percent.

MS. FUA: And what percentage --

MR. DU CHESNE: About 10,000.

MS. FUA: Okay. What percentage have ever been convicted?

MR. DU CHESNE: I don't know that. That information is not available in an overall statistic. I mean, I'd have to search 20,000 records to count that number. But I do know that there have been arrests of at least 10,000 of them.

MS. FUA: My general question to the entire panel is – I feel like there's been, like, two different stories told here today. The first set of stories was about the problem that people get stopped indiscriminately and are, you know, photographed and that their rights are being violated. And what I hear from the chiefs here is that we have a great program. It's very effective. We stop gangs.

At the very least, I guess, if there's not -- there's either a substantive problem that there's a real underlying problem, or there's a perception problem in the community. But there is a problem, and I would like each of the chiefs to tell me how they would like to address that.

MR. KNEE: I'm not sure I can address that. I don't disagree with you. There is a perception problem. We try to hire only the best people to be policemen. We train them as hard as we can. Even though our cities are financing -- financial backgrounds of our cities are suffering, we do whatever is necessary to try and keep our community safe.

Many times we have incidences where there is disagreement over what the police have done, whether it's involving gangs or whether it's involving other individuals who are detained and ultimately arrested. Simply stated, I guess, there are two sides of the piece of paper; two sides of every coin.

I think -- and I'll speak specifically for Garden Grove -- I think we do things right. I think that when we are made aware of situations in which we have not done them right, we respond immediately and with the appropriate action.

In the late 1980's we had one year over 50 home invasion robberies involving where the victims were refugees. Not a single case was solved because they did not trust us. They did not participate in the process. Today, if we have a year where we have 10 home invasion robberies, that is a bad year. And our ability to solve those crimes is actually higher than our solvability when applied to general robberies.

It is -- we are successful because we have extended a hand to people's in our community of all ethnic backgrounds. And I think that through this philosophy of community policing -- that gets badgered around quite heavily today -- we

have built some bridges. And certainly the bridges are not wide enough, but they are there.

And so I would just like to say that there's not a chief in this county who, when confronted with an issue, does not take the appropriate action. We're not perfect. We hire your brothers and sisters, your cousins. And as you grew up with them, you realized they weren't perfect. And sometimes human beings make mistakes. It's how we respond as an organization to those mistakes, and so I think we do respond appropriately.

MR. MC KINLEY: I fully support what Stan just said there.

Also, I will remind you what I said at the beginning is that there's a mediation by the Orange County Human Relations Commission that's been very, very successful as a mediation group. They have worked in our city of Fullerton. They have worked in the city of orange. They have worked in the City of Westminster. We worked very closely with them. There's a -- I think that's a bridge between law enforcement and those members of the community that may not trust us the way we like to be trusted, and that's open.

And I applaud my fellow commissioners on the human relations commission for being in an outreach mode. It's obviously a very diverse commission, and I think very, very successful. So that is also available.

MS. BUITRAGO: One more?

MR. DU CHESNE: I would just like to echo what was just said and also from a position in an organization that is very much involved in the prosecution aspects as in very violent crimes.

In 1986, the California legislation, when it enacted the safe streets act, indicated that every person regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap to be secured and protected from fair intimidation and physical harm caused by the activities of violent groups and individuals. The legislature further observed the state of California is in an state of crisis, which has been caused by violent street gangs whose numbers -- I'm sorry -- whose members threaten, terrorize, and commit a multitude of crimes against other gang members and against the peaceful citizens of their neighborhoods.

In 1993, we had 74 gang homicides. And I don't have the actual numbers here, but I'm sure that all or almost all of those victims of those 74 homicides were

minorities; be they Asians or be they Latinos and Hispanics. So we are -- we must not lose sight of the fact that the victims of these crimes are the very -- are often minorities because of the reason stated before.

It's unfortunate, but we can't deny that that's where a lot of the crime occurs. And we have to go there to protect those minorities citizens. It is the minority citizen that are the victims of most of these crimes. That is something we'd love to reverse and perhaps can reverse. But as we talk today, it's not upscale suburbia that's seeing the 74 gang homicides. Unfortunately, it's the higher ethnic areas. And that's something hopefully five years from now we can report that is no longer the case, but it is a fact now.

MR. COOK: Again, we see an issue of perception is reality to some people. And so therefore, a lot of our efforts are bent on changing that perception by reaching out through specific programs to try to work more with the community. For example, all of us here or almost all of us have a citizens' academy. And we bring in people from different groups in the community, and about half of them are people that just applied to come with no abrasive contacts with the police. And the other half are those community leaders who want to find out about something. So we bring them into the department.

And in my department it's a 10-week training program. We go over police procedures; we work with them; and we try to bring them in closer to us so that they can understand what our problems are and what their problems are. So we're reaching out in every way we can to change that perception.

I will tell you, though, that our statistics are beginning to show interesting things. For example, almost 90 to 95 percent of the victims of gang violence are minority groups, ethnic groups. That's what we're showing here. And those people deserve the protection that anybody does, so we set programs up that is designed to protect the community.

And I would think if we didn't take these positive programs and put them out there, that we would have the community -- we'd be answering to you, why don't you do something about the gang problem? Why don't you do something about the homicides? So all I'm telling you is that we're trying to do that. We're trying to reach out to the community, and we're trying very hard to change that perception.

MS. BUITRAGO: Thank you. Ms. Reynaga?

MS. REYNAGA-OLSON: I have a question I wanted to direct to chief Jim Cook. Maybe it was you, I'm not sure; that when you talked about the photographs and having -- the consensual agreement having a signature. Maybe it was over here. I'm not sure which one.

MR. COOK: I think we both have the same policy.

MS. REYNAGA-OLSON: Okay. My question was -- usually, more times than not, when a violation occurs on the street whether, it is a parking ticket or whether it's a traffic violation, I mean, you usually get some kind of receipt. I was just wondering when a field interview card or even when a photograph is taken, does the suspect that's being stopped, does he receive anything showing what he's been stopped for and who it was who stopped him -- any of this -- to take with them as a result of whatever he was suspected of?

MR. COOK: If he requested from the officer, he would give him his name and badge number; and that's it. We don't have any written form that we use. I don't know. Westminster does not. Do you, Stan?

MR. KNEE: No, he wouldn't. But what he would have, if he followed our process, is if he would complain, then the organization would look into it. And if on that F.I. card or that photograph is found that there's not probable reason for that action by the officer, then we would take appropriate action. But, no, we don't give them a copy.

MS. REYNAGA-OLSEN: Is it going to be something implemented in the future, or has it even thought of where the suspect who may be someone who was just standing around as part of a group or whatever and was, maybe, by association stopped and photographed -- or maybe not photographed, just a card filled out -- that he gets some kind of a copy of it, if it's done in duplicate, they ought to give them a copy? Are you anticipating coming up with some kind of a policy for that to make it easier for them if they decide to appeal if they have something to show for the time, the place, and who they talked To? Because more times than not, people don't carry a piece of paper around with them.

MR. KNEE

Well, if the purpose is to be able to present something to the appeal process -- because we computerized our F.I.'s as well as the names of the photographs -- he would simply have to give his name, and then we would be able to pull up that documentation. He knows what goes on the F.I. card because generally -- well, virtually all of the information he's asked, the personal information, the only

thing we would not see is the reason for the stop. But as far as being able to come to the chief's office and present a case, we would be able, just by taking his name, to pull that information up and provide him with a copy as we discussed it and so forth.

MS. REYNAGA-OLSEN: The suspect is not required to sign anything after he's been stopped and is told or said to him explained to him why he's being stopped? Is there any place where it's been recorded why he's being stopped, and it's written down, and it's documented on this field card?

MR. KNEE: Yes, it is.

MS. REYNAGA-OLSEN: What I'm saying is: he doesn't get a copy of what he signs for?

MR. MC KINLEY: He doesn't sign a card.

MS. REYNAGA-OLSON: There's no policy for that?

MR. KNEE: He doesn't sign the F.I. card. If it's a consensual photograph, he would sign the back of the photograph. We all train our officers to explain the reason for the detention; explain the reason for the stop. We hope that they do that in most cases. And in my years of management and law enforcement, seldom has that been the real issue. The real issue usually was "I didn't do that," and the officer said, he did do that. It's not really what's actually on the F.I. card or what have you. It's never been that. I really don't see why we would institute something like that.

MS. BUITRAGO: Ms. Fua?

MS. FUA: In answer to my last question, what I heard the chief say -- all the chiefs say is that, you know, we have procedures in place; we have a complaint procedure; we are doing the best we can, you know; and that's what I heard. And what I heard from the community is it's not working.

And so what I'm asking the chiefs now is: are you guys open to other methods because it doesn't seem to be working? For instance, one of the community members floated the idea of a citizens' review panel. What is your feeling on that?

MR. MC KINLEY: Well, I remind everyone that we already have a citizens' review panel. We all work for the city manager, and there's a city council that we all

go to, and they're all elected officials. And so that definitely would seem to be a very democratic and appropriate system of review.

MS. BUITRAGO: Do you have any questions?

MR. ERLER: No more.

MS. BUITRAGO: I have a couple more questions, and it looks like we're actually kind of catching up and maybe we can finish this panel a little early and take a Break. And my question is to Mr. Du Chesne , again.

To confirm, CGNAC is, in fact, going to have oversight over the new cal gang -- statewide cal gang?

MR. DU CHESNE: Yes, as it does today.

MS. BUITRAGO: And you mentioned earlier that there are going to be some modifications to the approach that the great system has; is that correct?

MR. DU CHESNE: Great will be replaced by cal gang. It's the next level of evolution. And the system as we know it today from the LACN, the law enforcement communication network that basically sold the software and conceived the network, that private corporation -- it will no longer be supplying the service for this system.

The service will be provided by a company called Orion, which has been sold to the attorney general. So the attorney general will be the parent agency, but the policy and operational procedure will be jointly shared between CGNAC -- I'm sorry -- the members of CGNAC will share that. And the members are the members of ocjp, members of the attorney general's office, and the seven participating nodes.

MS. BUITRAGO: Will there be consideration to allow public comment as you've developed the policies? I assume that you'll be reviewing the policies and that you'll, maybe, add or subtract some of those policies and procedures. But my question is: as you do that, will there be an opportunity for public comment?

MR. DU CHESNE: Sure. This is a government program and it's in the public eye, and there's always opportunities for the public or any interested groups to provide input. We welcome that.

MS. BUITRAGO: Is there going to be a notice process for community people to know that they can make their comments?

MR. DU CHESNE: I doubt that there will be, at least not in the sense I think you're thinking of.

But the program is -- the new program is in its final formative stages. So if there's anybody that has concerns about the criteria or controls in the next few months, there will be a good opportunity to contact any of the participants and get in touch with the appropriate person in the attorney general's office, which is the parent organization, and express those concerns and ask that those concerns be related to the CGNAC committee because those kinds of issues are constantly being discussed at this point: what are our controls? Is our criteria appropriate? Is our criteria working? Do we have proper purging controls? And so on and so forth. And it's a very open subject right now, and we would welcome any comments.

MS. BUITRAGO: The reason that I'm asking today is because I work with a lot of federal agencies; and they do, in fact -- before they make procedural changes, they give notices. And it sounds like that's not going to happen here. But I guess you know people who are present at the hearing can do that. But I'm just wondering if you could consider having formal notice given -- as many federal agencies give -- because this is a very important issue and a big issue that I think community organizations and people have a right to provide comments on.

MR. DU CHESNE: I, personally, would welcome that, but I'm not in control of the overall process that goes on. But I'm in a position where I can recommend it, if that's what you're asking. I'd be happy to do that.

MS. BUITRAGO: That's exactly what I'm asking. Thank you.

And one last question. There's been something that's bothered me a lot throughout this hearing, and that's been the question of safeguards. Earlier in the hearing, I asked regarding the specific safeguards that the great program has for making sure that innocent people are not added to the system. And to this point, I really haven't heard any kind of listing of what those safeguards really are.

MR. DU CHESNE: Well, there's -- the safeguard is, basically, the subscription to the criteria. And I've given you one of the brochures. If you want to open the brochure to the inside page, and where it says "the great system also known as

cal gang." The criteria is in that section. And I guess the safeguard is if you don't fit this criteria, you should not be in the system. And if you fit this criteria, then you're eligible for the system. So the regulations, hopefully, will prevent inappropriate submission of anybody's name who doesn't belong in there.

MS. FUA: Who monitors that? Who enforces that?

MR. DU CHESNE: Well, each agency is responsible for subscribing to these procedures under penalty of sanctions including the total exclusion from the system. Also, the central node has an obligation to police those agencies, and then the attorney general will -- now with a new system -- have the responsibility with CGNAC of auditing the participants to make sure that down the chain, everybody is subscribing to these procedures. But it's like anything else. There are rules and regulations. And if you follow those regulations, you shouldn't have any abuse.

MS. BUITRAGO: I'm glad to hear that there's going to be auditing because there are lots of rules and regulations just like there are lots of laws. And there are a lot of criminals who don't follow those laws. And my concern -- and I'm glad to hear that there's going to be specific audits.

Is that going to be on a periodic basis?

MR. DU CHESNE: Yes.

MS. BUITRAGO: How often?

MR. DU CHESNE: I don't know at this point in time. I know that they're going to be annually because what they're auditing for is proper submission criteria and also purging. Purging is a very important area that's going to be looked at.

MS. BUITRAGO: Any other questions? We're going to take a five minute Break and then go into the public session.

(a recess was taken.)

MS. BUITRAGO: If people want to actually provide us with comments, please come into the room. We're now into the public open session of the fact-finding hearing. And what I'm going to be doing is calling up six people at a time. And, unfortunately, even though we would like to give each one of you more time, I'm going to have to place a time limit of three minutes for each person because we have 18 people who want to speak. And we want to hear all of

your stories about how each and ever one of you has been affected. And what I'm going to ask you to do is to come up; six people sit at the table.

And as you start to give your testimony, please state your name and also let us know if you belong to an organization. We need that information for the record.

So we're going to get started. The first six people to come up to the table will be Thomas Logan, Bruce Mc Donald, Seferino Garcia -- if you can just have a seat at the table, please -- Judith Serafini, Richard Castillo, Fred Garcia. And I'm going to call out Thomas Logan once again.

MR. LOGAN: Here.

MS. BUITRAGO: Please have a seat at the table. And Bruce Mc Donald. Okay. Since Mr. Mc Donald is not here, I'm going to call up Rudy Escalante.

And we're going to start with Mr. Logan. He will get two more minutes and will actually get a total of five minutes. Public comment will be held down to three minutes for all the other speakers.

MR. LOGAN: So I get five?

MS. BUITRAGO: You get five.

MR. LOGAN: Oh, great. Okay. I just have a written thing, and I don't think it will take that long.

Can you hear me all right?

MS. BUITRAGO: Yes.

MR. LOGAN: Okay. Good afternoon, ladies and gentlemen of the U.S. civil rights commission. My name is Tom Logan. I'm here today speaking on behalf of the citizens bureau of investigation of the City of Huntington Beach area. I would like to speak to you today on gang activity going on in Orange County that is not of the traditional gang-banging, graffiti writing, driveby-shooting, drug-dealing people menacing today's neighborhood. The gangs I'm speaking of today are the police.

I would like to qualify that somewhat by stating I don't consider all police department or their officers to be bad guys. In fact, I think that the vast majority of these people are good people just like, I think, you and I are.

Having said that, I would like to direct your attention to certain activity being conducted by the City of Huntington Beach Police Department and their police officers association or union.

For the past several years, this particular group of people -- and, again, not all members of this group, but a significant percentage of these people have been engaged in the type of citizen abusive behavior pattern that seems to be sending a negative message to the community; and that is their type of law-keeping duties is both ruthless and objectionable to not just the lawbreakers but to the general public as well.

Most recently in 1996 -- and again this is the next period -- the Huntington Beach -- 1997 period, that is -- the Huntington Beach Police Department has adopted what they call the zero tolerance policy for the downtown Huntington Beach 4th of July celebrations. The present city ordinance and city code for disorderly people and alcoholic consumption in public is so pervasive as to give question to its legality under U.S. Constitution provisions. And I have a copy of the ordinance here for your review. I don't know. How do I get that to you? I'll just leave this here. I have some other material, so I'll give it to you as a packet; okay?

I would like to put some of these policies in context by offering the following analogy: during the 1968 democratic convention in Chicago, Mayor Daily's police department arrested 300 people in a five-day period in what was recognized as some of the worst riots in the history of our country. Yet, the Huntington Beach Police Department, in exercising their zero tolerance policy, managed to arrest 549 people in a 12-hour period during July 4th, 1996.

Many of these people were arrested for having a beer on their front porch or drinking -- driving a bike without a license. These people now have police records. They were arrested, photographed, fingerprinted, and spent 12 to 16 hours in jail for noncriminal offenses which are questionable in their context.

I have with me today copies of several newspaper stories -- and again, these are the packages -- stories which detail some of the questionable tactics being carried out by the Huntington Beach Police Department.

On May 8th, I and several other members of the Huntington Beach community met with Mr. Tom Pilla and many of the same topics and concerns regarding the conduct of the Huntington Beach Police Department were explained to him. Much of the same evidence I am presenting to you today was given to him at that time.

To conclude, I would like to read to you certain provisions of the constitution of the United States of America that I believe apply to the situation occurring in Huntington Beach. Under constitutional amendment no. 1, in part, it states, "the right of people to peaceably assemble" -- I'm sure you are quite aware of these amendments. Under amendment 4, in part, states, "the right of the people to be secure in their persons, their houses, against unreasonable searches and seizures," you know. I'm talking about the person's body being hauled downtown for drinking a beer in their front porch. This is ridiculous, outrageous.

I would hope after hearing what I have said today and taking into consideration some of the material I've presented you with, that you will take steps to investigate the actions of the Huntington Beach Police Department.

This concludes my remarks. Thank you for allowing me to speak at this time.

MS. BUITRAGO: Thank you.

MR. LOGAN: If you have any questions, I'd be glad to hear them.

MS. BUITRAGO: Because of the shortness of time -- and we have so many people here to speak, we're not going to be asking questions, but thank you very much.

MR. LOGAN: Okay.

MS. BUITRAGO: Mr. Sererino Garcia?

MR. GARCIA: Okay. I got --

MS. BUITRAGO: If you can use the mike.

MR. GARCIA: Yes. All right. Here. This is the statement that I'm going to elaborate about.

MS. BUITRAGO: Okay.

MR. GARCIA: My name is Seferino Garcia. I'm a director of SOLEDAD COMMUNITY DEVELOPMENT CORPORATION. SOLEDAD means to uplift and to upgrade the community, in Spanish. I'm here to speak about the unsolved murders and on the City of Anaheim.

Several years ago in 1994, there was a young brother named Jose Aguirre who got assassinated in a driveby. This young brother had stopped his activity in gangs, and he started working in the community. We got him a scholarship. We worked with him. He was at work, and he stopped at burger king to get something to eat. And somebody drove by and took his life. We haven't heard nothing from the police department. His father, Luis Aguirre, had been calling the police department at least twice a month about this killing. And it happened almost in broad daylight.

When the killing took place, the driver also got shot in the back, but he managed to drive to Jose's house. And while they were there, the police department came throughout the house and peter, Jose Aguirre's younger brother, came out of the house and went inside the car and saw he was shot and tried to help his brother out. And the police had shotguns to his head and to his father's head. And peewee died in peter's arms.

We would like to have the Anaheim P.D. give the family some kind of upbeat on what's going on in that case. Jose aguirre, 18 years old, he took a second in the golden world nationals that year. He had a scholarship at cypress college. He was on the way to college, and he was a young man in good standing in the community. That's one.

The next one that I want to talk about is Tomas Rodriguez. A young brother that got assassinated in a driveby in 1994 -- march of 1994. The police department from Santa Ana, they were on the scene within five minutes. They arrested some guys within maybe two or three days. The guys did four or five months in jail and got released. In the newspaper, it said "gang members acquitted in shooting." To us in the community, that was a slap in the face. That was like a license to do drivebys.

We had gone through the city council. We formed the Tomas committee with the family. We met with several members of the city council and spoke to Paul Walters about following through on the investigation. And the family are here today. Nothing has come out from that.

MS. BUITRAGO: Your time is up, sir. So if you can summarize.

MR. GARCIA: Okay.

MS. BUITRAGO: Again, I have to be very strict about the timing.

MR. GARCIA: All right.

MS. BUITRAGO: I'll give you enough time to sum up. I'm sorry.

MR. GARCIA: Okay. We would like to set up a special task force in Anaheim to investigate the killing of Jose Aguirre and also in Santa Ana the killing of Tomas Rodriguez and one killing also in Anaheim again, Alfred Becerra, who was killed in 1993.

MS. BUITRAGO: Okay. Thank you very much, Mr. Garcia.

MR. GARCIA: Thank you.

MS. BUITRAGO: Judith Serafini?

MS. SERAFINI: I'm Judith Serafini. I'm the executive for Solevar. And one of the ripple effects of the unsolved murders is that you, then, have the sibling, in this case -- in Thomas Rodriguez's case, as well as in Jose "peewee" Aguirre. They're close in age, and they suffered trauma. The family suffers the trauma of being revictimized continuously because there's never any resolution; and these cases are left open; witnesses are uninvestigated. And then you have the chance of the siblings going into the same type of trauma dealing with that death, whether with the use of alcohol, drugs, dropping out of schooling. And unfortunately, in the case of Thomas Rodriguez, his brother, one year later, committed suicide over the trauma. So the family is triple in this, and it's really heavily, heavily impacted.

And one of the issues I just want to briefly touch on is that it seems with the target -- the attitude is that gang members, shot-callers, anyone affiliated cannot decide to change their lives; therefore, they are labeled gang members forever. If they become active in the community -- from westside, the gang members joined together with the veteranos and with the elders and said we will stop this. We want to improve our community. They got involved in barbecues, community development block grant. They went to community meetings. And instead of being welcomed as wanting to change their neighborhood, Ponderosa Park was surrounded by police. And, in fact, the

police presence at community meetings, at city hall, deterred and in some cases caused the misinformation to go between rival gangs.

It is very difficult for a gang member to go from one neighborhood to the other and especially to come forward to talk about their needs. They know what the change is. So with the targeting, with the photographing, with the labeling, it carries a bigger, bigger stigma, and that is the attitude that the gang members at any level, at any age, cannot change their lifestyle.

In San Francisco, they use shot-callers and gang members and former gang members as role models to come back and talk to younger students. You need to take a look at their comprehensive attitude programs out of their ground office to look at coming together with an attitude that we will – you can turn your life around and you can make a difference. Thank you.

MS. BUITRAGO: Thank you. Richard Castillo?

MR. CASTILLO: Yes. My name is Richard Castillo from the United Neighborhoods. And this story goes back 16 years, and I hope I can explain it.

My son committed – you know, broke the law. He shoplifted. And him and his friends jumped in the car, and they took down the road. And the cop finally caught up to him, and my son – you know, all the other guys started running and my son just said, well, I might as well wait, you know, let them catch – they caught me. Besides, he was the only one around so he knew he couldn't run very far.

And the cop proceeded to just beat him to a pulp. And I have witnesses. I had three witnesses that saw it. And my son just – they got him and they threw him on the ground and dragged him to his feet and in the bloody – just a bloody pool of blood. And what they did is they covered him with a sheet, and one of the officers that was the second officer that came really saved him because he grabbed the guy and said, hey, Paul, what are you doing? The guy was just like crazy, you know.

And my son broke the law. I realize that. My son was a gang member, you know. I can say that. But when that police officer beat him, he became a criminal himself; and therefore, you know, it hurt me and my wife real bad. That's all.

MS. BUITRAGO: Thank you, Mr. Castillo. And I know that it's very hard for you to give that testimony, but thank you very much.

I'm going to have to move on, however, and hear from Fred Garcia. Oh, you went already? I'm sorry. Rudy Escalante?

MR. GARCIA: I never finished, but that's all right.

MS. BUITRAGO: Rudy Escalante?

MR. ESCALANTE: My name is Rudy Escalante. And I am chairman of the American G.I. Forum for union 3, which is L.A. and Orange County. And the main reason that I'm here is to support United Neighborhoods in their efforts to try to solve many of the problems in the community within the Anaheim Police Department. And one of the most important recommendations that I see -- and I hope that this commission recommends it too -- is the need for civilian police review board with sufficient powers and independent authority as a solution to police misactions. And as you commissioners witnessed today, you asked the police chiefs about if they would support a police review board and the answer was no. So now you know where they stand. And, of course, I knew that all the time. And the forum has been involved for the last 49 years working with community organizations in trying to resolve some of the racism and discrimination throughout the united states.

And the other thing is that I was looking at the holocaust the other night and, I mean, talking about taking photos of innocent people. Well, some of you might not know but the nazis during world war ii, they also used to take pictures of innocent people. So what I'm saying is that I hope that this commission recommends a civilian review board, because I think that that's a very, very important issue because, as you know, when you go and file a complaint in the police department, how can you get any justice when the person that you give the complaint to is under investigation for police brutality? So that's what I'm saying. Thank you very much.

MS. BUITRAGO: Thank you, Mr. Escalante.

I'm going to call up the next six people: Marilyn Weidman, Ricardo Mendoza, Josie Montoya, Steve Delgadillo, Randy Segouit.

MR. SEGOVIA: Segovia.

MS. BUITRAGO: Segovia. Okay. And Benny Silva. We'll just start with Marilyn Weidman.

MS. WEIDMAN: Could I defer to Benny, if I could? I think he would be a good place to start.

MS. BUITRAGO: So you're not going to make any comment?

MS. WEIDMAN: I would like to, but if I could exchange places, I think it would be more effective to hear Benny.

MS. BUITRAGO: Mr. Silva?

MR. SILVA: Okay. My name is Benny Silva. I'm with united neighbors of Anaheim. I'm here to discuss -- our son Gary was murdered in September 24th of '95 in Santa Ana.

AUDIENCE SPEAKER: We can't hear.

MS. BUITRAGO: Can you use the microphone?

MR. SILVA: I'm sorry. Okay. Our son Gary was murdered September 24th of 1995. Up to now, almost two years since his murder, no one person has been arrested. Santa Ana P.D. has the highest unsolved homicides in the county. The police were called through 911. They passed one time through the street. Not one time did they get out of their car to investigate. He was labeled as a known gang member when they I.D.'d his body. If you're labeled as a gang member, you don't get investigated as fast as a nongang.

He says -- there's a write-up that the chief made in the Santa Ana Register. He says, "no one will miss them." This talks about all these gang members that are killed. He says, "if they're killed, no one will miss them." This was Quoted in the Santa Ana Register.

And what I would like to get going is to have the police even communicate with us. Up to now, nothing. The other day my wife called the homicide, tried to get ahold of a detective. He said -- she left a message. He wasn't in. He called back and he says, "what did you call me for?" So that's the mentality of the Santa Ana P.D. thank you.

MS. BUITRAGO: Thank you, Mr. Silva. Ms. Weidman?

MS. WEIDMAN: I'm a social worker, and I'm here as a member of the Latino Social Work Network. And we are putting together a group of people who will be presenting some materials regarding what we are fighting in Orange County in terms of inequality in the land of opportunity. And it is very real. And those of us who work in social work and social services see it quite often. And part of what we have seen and I have been dedicating a lot of my time to doing is going out as a member of the United Neighborhoods as well and documenting and researching what this is doing to the community and especially to the children.

And I think something that gets lost in the equation here is that ripple effect that Judith referred to and that is the siblings, the younger brothers and sisters, the family members; how this affects them when they see their fathers, their mothers, their sisters and brothers beaten, brutalized, humiliated in public; made to strip-search in public and made to go do all sorts of things that we couldn't imagine happening to our children in the white community.

And this happens every day. They are stopped. They are detained. They are ticketed to death in order to get a contact, an F.I. card. I just learned what that thing was called. All I know is -- and I just learned this too from a young man who was going to testify today, but they would be here -- we went out to see if some of them might come in. They are extremely terrified of retaliation by the police, and so they don't show up.

And, anyway, those F.I. cards or those contacts are registered on their records, and if they are on probation -- I just found out that their probation is extended. For instance, if they're on a six-month probation, that is extend another six months from that time of that last contact. And so that contact could be for something very, very minimal, you know.

This is the other thing that I have many, many questions about is what is the criteria by which they determine reasonable cause -- or whatever these words are -- that the officers use to stop somebody and detain them. And we can go through what -- you know, is everybody following a strict standard of criteria?

MS. BUITRAGO: If you can summarize your comments, please.

MS. WEIDMAN: My concern is it's the officers themselves who have to determine what their own integrity; what their criteria is; if they are being honest when they fill out those cards. And that's what we have our real concern about. Thank you.

MS. BUITRAGO: Thank you. Ricardo Mendoza?

MR. MENDOZA: Good afternoon. My name is Ricardo Mendoza. I'm, first of all, the California deputy state director for LULAC -- for the league of united Latin American citizens. I'm a citizen born and raised here in Orange County and also the father of quote/unquote target at risk children here in Orange County.

The first thing that I wanted to make real clear, and I think it's been documented not only at this hearing but apparently a hearing that this body made in December, that first all, this isn't a new problem. This is a historic problem. If you are Latino growing up in Orange County, you know that these things happen. It's historic, and it's an ongoing problem.

What really concerns me as an individual is that all of a sudden it has become trendy, you know, to discriminate. And also to violate people's individual civil rights is becoming institutionalized and it's become legitimized. And that's what I'm basically concerned about when institutions such as the police department, cities, counties -- and, as we heard this morning -- statewide agencies think it's okay to violate individual civil rights by detaining them, by getting photographs, photographing indiscriminately, you know. These are violations of civil rights.

Again, LULAC goes on record that we are against youth violence. We are against fighting gang activity and crime. And we also would like to be on record to say that we also are against any policy, code, procedure, or statute that violates individual civil rights. When one individual's civil rights are violated, all of our civil rights are violated. And that's basically, you know, what I wanted to say as far as the league is concerned.

We also support all the organizations of individuals and their efforts, I think, taken here today and that have been going on for quite a while in Orange County. As a parent, I have personally been involved with having my children and myself indiscriminately detained and asked questions whether or not we belong to gang members or not. My son, for instance, is 21 now and in the last five years has been stopped five times. Never given a reason why he was stopped by the Fullerton Police Department, the Westminster Police Department, La Habra Police Department, and the Orange County Sheriff's Department; all asking the same question: are you a gang member?

MS. BUITRAGO: Mr. Mendoza, we have to interrupt and ask you to summarize.

MR. MENDOZA: That's fine. So, basically, what I would like to make as a recommendation is I would like to say that, you know, we do support police citizen and review committees; we support hearings such as this that goes on in the community and obtains information. What I would also like to see in particular these hearings is that these hearings or these types of hearings are more accessible to the community; that one of the ways that they can be accessible to the community is by holding these hearings in the quote/unquote target areas.

And one of the other things that I would like to see is we saw three panels -- three or four panels this morning, and what was really interesting, even though the subject matter was youth, there were no youth panels, you know. And that tells us a little bit about the procedure and things that we need to look at for future hearings and policies and regulations.

MS. BUITRAGO: Thank you, Mr. Mendoza. And I really do have to interrupt, and your comments are well taken.

MR. MENDOZA: Thank you.

MS. BUITRAGO: Josie Montoya?

MS. MONTROYA: I have been a community organizer activist for most of my life. I was born in Anaheim, and I've done a great deal of community work in Anaheim. And it has long been my belief that in any situation where you organize for improvements in the community, there aren't any community issues, whether it be discrimination, housing, law enforcement, whatever, that you need to blend the leadership, what I call the professional leaders, those who are in a position that can go out and do the research and come in with the research and professional knowledge with the grassroots, leadership that are affected by the issue. And in my estimate, many times the true experts. And I think that has happened here today.

I was very happy this morning that I walked in and the first panel was talking about the issue in the same manner that we talk about it at our neighborhood community meetings. They were -- the type of recommendation they were making are the same ones we are submitting to you for your consideration.

And as kind of a confirmation, one of our organization members came up to me at first Break and said, "did you talk to them? Did you tell them what to say?" And I said, no. And everybody was very excited that, gee, we must be in the right track. And it was a real confirmation for us.

I want to say that this not only shows civil rights as it is occurring in Anaheim where the Anaheim Police Department is very divisive to our community. It is taking one segment of our community and putting it against another. The figures that are released to the public about the number of gangs and the number of gang members -- 5,000 gang members in Anaheim -- are grossly inflated. We could probably say are inflated as much as 50 percent. Now, this is not only happening in Anaheim. In doing research in Orange County and other cities, we find similar information available.

Like I said, the true experts on just about any issue are the people that are affected by it. And we can go from neighborhood to neighborhood in Anaheim and know exactly how many gang members there are in those neighborhoods, and that they are far, far, in distance, from what the police said.

Now, why does the police want to inflate these figures? For economics, for grants, for money. And in my belief, I feel that they hold the community as hostages by the fear that they instill in them. It's a constant thing publicizing of, you know, give us more money, let us do this and look out what we're doing; and if you don't, these gangs are going to come after you. These gangs are a serious problem. Yes, we are against gang activity, against criminal behavior; but we believe that gang members, if offered an opportunity, that most of them will choose to be positive or contribute to society given the opportunity.

MS. BUITRAGO: Ms. Montoya, can you summarize your comment?

MS. MONTOYA: Yes. I am going to join and support of all the other people that throughout the day have said that the only real solution is a police community review board with subpoena powers. There's just no way that police can investigate themselves. They have consistently showed that. And in the information we submitted to you, there is a listing of 11 individual abuse cases, violence cases. They are listed by date and name. I ask that that file be kept confidential. We did not include the police officers' names. We do have those police officers' names available, and we'll make them available to you upon request. The file has been submitted for your review. Thank you.

MS. BUITRAGO: Thank you. Steve Delgadillo?

MS. DELGADILLO: Thank you for this opportunity to speak. My name is Steve Delgadillo, resident of Orange County for about 25 years. And my family is from Jalisco, Mexico. I wanted to be here and thank you that I'm able to participate

as a working member of the United Neighborhoods; but I came to this, basically, as a parent of four daughters.

And my concern was an incident that has happened to me in Anaheim with the Anaheim Police Department. And it may be trivial, but it's very important for search and seizure that it happened. And yet the police may think it's not an important issue or isolated event, but I was with one of the youth from the beyond limits program. We were harvesting sage that grows wild in Anaheim hills. As we collected the sage, we were posed by law enforcement pulling material out of my car and stating that they wanted to know what all this was that they spread on top of my car. And I was concerned about that because it was locked, and they broke in. And it was a long process to try to work with law enforcement to see what they were doing and thinking that they have actually, as they said, cart blanche to do whatever they want to do, that raised some concerns.

If it's happening to me, it's happening to others in the community. And I have seen this behind closed doors as a former employee of the city manager's office of the City of Anaheim in interdepartmental gang and drug task force meetings; that had brought Sheriff Gaston and sergeant Harold Martin coming in as a plan to remove parking spaces from the community without public input and without having the public aware of what impact it was going to have and whether or not they wanted to do this. And with photographs passed around also of the community without their permission, that was also confirmed by Harold Martin -- oh, I just took their picture.

And when I asked him if he's bilingual, he says, they don't care if you're bilingual. All they want is a cop on your feet. This is the attitude. That was in a meeting -- an administrative meeting behind closed doors. And it's shocking that you see what's happening behind those closed doors, a planning process without community input, as to say that we know best what's for the poor "indio."

So that's a concern that I shared with them, although, he said, look how these people live with all the junk piled up in their garage. No wonder they can't park the car in the street. Well, I cautioned him on the way he approached the community; yet, I also said that his lack of cultural sensitivity is going to undermine the good works of other departments.

So multicultural sensitivity training is a must for all the departments; that it's mandatory that upon any promotion or salary increases, they need to have that comprehensive -- including if it's a mixed culture of a gang, they need to

know how to deal with that or people who are under the influence; how they can work with that.

So those are the recommendations, as well as the civilians law enforcement review board, I think, it's utmost. I want to, again, thank you for this opportunity to present this to you.

MS. BUITRAGO: Thank you, Mr. Delgadillo. That was good input. Randy Segovia?

MR. SEGOVIA: Yes. My name is Randy Segovia. And first all, I'd like to thank United Neighborhoods for giving me this opportunity to speak, and I'd also would like to thank the commission for also allowing me to speak here.

I am a native from Orange County. I was born and raised in Anaheim and did all my education here. Currently, I've just received my bachelor's degree in criminal justice and I realize that, you know, in the criminal justice system, you know, we do have a lot of problems.

I was also formerly the chairperson of CJMA, which is a criminal justice Mexican American student organization at Cal State Fullerton, where we, you know, get our students that are graduating in the criminal justice field to become sensitive and be aware of needs and the problems of the Chicano community and people with color.

The other reason I'm really here for is that I live in Riverside, and I know everybody is talking about Orange County, but what I basically would like to do is ask the commission to come to Riverside because it seems that we have the City of Anaheim, Santa Ana, and everything -- it seemed that they moved over to Riverside -- it seems like what I've been hearing today.

For example, I'd like to bring up a couple of cases. Number one, in the beginning of this year, we had two Latinos that were killed. One was the Ochoa case, and one of the members is here today. Her son was shot and killed. He was epileptic. He was shot and killed by the Riverside police department. And, in our opinion, some of the investigation that we looked at, we feel that Mr. Ochoa was left to bleed to death; and that is some of the information that we're looking at and we're coming about of the situation.

We also had another case of Islas. He was beaten up by five Riverside police officers -- beaten to death. And this caused so much anger in Riverside after we had, you know, we got real famous for the immigrant beating. We got real

popular for that -- our city. And it angered, the city of Riverside so much after the Riverside beating, and now we have these two Hispanics that were killed.

And also another aspect that nobody talked about is we're also having problems in our county jail where Chicanos and people of color who are in the jails are getting beaten in there and nobody can see or know what's happening or anything, but we're having cases where minorities are being beat by their being incarcerated.

The last thing or the thing that we're really concerned about as an organization -- I'm also a member of the American G.I. Forum and the criminal justice organization -- we're concerned about some of these police officers that have had excessive abuse cases. For example, Deputy Watson in Riverside had an extremely abusive case of police brutality, and yet no one here today has asked or brought up these questions about the police officers. Now, we're not saying all of them, but there are some police officers that have been involved --

MS. BUITRAGO: Mr. Segovia, if you could summarize your comments.

MR. SEGOVIA: Okay. What I'd like to summarize is that, you know, we're asking the commission to also support a citizen review board here in Orange County as well as Riverside, and also conduct investigations of police officers who have previous police brutality cases to show that patterns of some of these officers are abusing their power. Thank you very much.

MS. BUITRAGO: I'm going to be calling the next six speakers beginning with Mark Black, John Cogorno, Zeke Hernandez, Peyman Mottahedeh, Marvin Bryer, and Amid David.

MS. HOWARD: Excuse me. I was number 17 and I wasn't called.

MS. BUITRAGO: What is your name?

MS. HOWARD: Grace Howard.

MR. HERNANDEZ: She can take my place.

MS. BUITRAGO: We're actually at number 15. I called 11, 12, 13.

MS. HOWARD: I thought it was 15, 16, 17.

MS. BUITRAGO: Let me see how many people we have. Let me just call out the names. There's actually two people signed up on one piece of paper. That's why. Audience speaker: they're not here. They had to leave.

MS. BUITRAGO: Okay. If they're not here, then we will get their comments. Zeke Hernandez?

MR. HERNANDEZ: Zeke.

MS. BUITRAGO: Zeke. Sorry. Peyman Mottahedeh?

MR. MOTTAHEDEH: Yes.

MS. BUITRAGO: Marvin Bryer, Amin David, and Grace Howard. Let's see. And I can take two more people, Elvia Hernandez, and Selinda Lopez. We're going to start with Mr. Hernandez.

MR. HERNANDEZ

Before I start, I just wanted to ask – my name is Zeke Hernandez. I'm past director for LULAC – league of united Latin American citizens. Of the committee members who are here now, how many were here when we held the hearing in December of 1993 here in Orange County? I just wanted – okay. Three of the four that are here now or three of the three?

MS. BUITRAGO: Three of the four.

MR. HERNANDEZ: Three of the four. Okay. My name is Zeke Hernandez. And as you know, in early '93, we filed a multipoint complaint with the U.S. Commission of Civil Rights. And earlier I did speak with the chair, Mr. Fernando Hernandez, and he said that he would also be speaking with the staff members so that we can get a feel in terms of the status of that complaint.

As I understand from some staff members – and I really don't know that – you know, when they say some things in Washington D.C., you know, you get lost in the bureaucracy. But, as you know, we did file that report, and it is extensive. The complaint is extensive, but I just want to highlight several of the items within that complaint. And because that was '93, '94 passed, '95 passed, '96 passed, and '97 will soon pass; okay?

And I think what I want to bring up a little later on is that I don't know how we can strengthen your influence with the U.S. Commission on Civil Rights because certainly the community can look towards law enforcement agencies in terms

of protection as far as the street is concerned; but as far as civil rights are concerned, community members don't have too many entities to look up to. And we are looking at this state body here for some assistance, and I think that we want to continue to believe. We want to believe because we just don't want things to happen that they get taken; they get filed away and forgotten.

But some of the things that occurred -- that did occur in '93 was the report that came out of the Orange County grand jury which basically blamed a lot of ills and even the floods to immigrants and primarily immigrants of south of the border. And you look at the Orange County grand jury. Orange county grand jury responded to those kinds of complaints. They did an outreach effort, and they were able to bring on some members of color of the minority community, Latinos, and the African American community.

But today, today, that Orange County grand jury consists of members of the community of only one -- one right now that's a member of the ethnic community in Orange County. And I believe that person is Asian-American. No Latinos, no blacks, no African Americans. So you wonder what has happened. What has happened? We complain. They respond. They make things happy for a period of time, and then we come back to being the same as usual, the same as usual. And so -- but we still believe; okay?

The housing part of the complaint -- we've told you of the millions and millions of dollars that the housing authority receives here in Orange County, yet not one --

MS. BUITRAGO: Mr. Hernandez, if you can please summarize.

MR. HERNANDEZ: Yes. -- where not one nail has been hammered into a ply of wood to provide affordable housing, yet millions and millions of dollars are being -- are entering into the county.

We can talk about many other things, but I think what is very, very important is I understand that our complaint to the civil rights commission is still there, but it's a matter of what status. And I think if we were to somehow come up with a statement from this committee as to how the civil rights commission can receive it in order so we have the civil rights commission come here for a hearing.

In '93, members of the commission of civil rights said that it took them two years for them to plan to have the meeting in Los Angeles in '93. And, again, several years have passed. And I know that there is the bureaucratic part of it. I know that. They came up with the excuses in terms of the funding or underfunding of

things, but I think that what has happened the needing and pleading of the people you cannot ignore. Thank you very much.

MS. BUITRAGO: Thank you, Mr. Hernandez. And I'm going to say that -- because it's been a long time since we had the first hearing and, in fact, this hearing is a result of that hearing. We had to pick one issue that we could focus on. And that is what that issue is today. But for those of you who want to advocate budget issues, you can be sure if we had more money, believe us, we would have been back a lot sooner. And that's one of the reasons why it took us so long. We apologize for that to the community because it's not lack of interest. It's the funding.

And Mr. Hernandez, thank you for your comments, and I need to move on to the next speaker.

MR. HERNANDEZ

But no apology is needed because it's the civil rights commission -- the united states civil rights commission that we're asking to come here.

MS. BUITRAGO: Thank you, Mr. Hernandez.

Mr. Mottahedeh?

MR. MOTTAHEDEH: Yes.

MS. BUITRAGO: Did I pronounce it properly?

MR. MOTTAHEDEH: That's pretty close. Peyman will do.

Thank you, ladies and gentlemen of the commission, for taking your time to hear the public. I believe this is a very posh forum for the citizens to voice your concerns and you give the opportunity to make proper recommendations. And I'd like to make some suggestions as to the next time that you do come to Orange County or throughout the state, another issue that relates to the equal justice and law enforcement issue; and that is, where ultimately the rubber meets the road: the judiciary.

To tell you a little bit about myself, I come from Iran. I am of a Jewish family. My relatives were -- some of them were tortured and executed by the government of Iran accused of being spies, corrupt, and other false and baseless charges. So I come to America. Currently, I'm the director and founder of the law school

in Tustin. And fortunately, some of the problems that are being addressed already, there are some remedies.

When the police abuses you, the people can sue the police agencies and do win. And the American citizens, the don't have to necessarily rely on the ACLU. Everybody can pick up a law book, learn the rights, study it. It's there. Sue these guys, and there is a remedy. And suing these police agencies stops abuse. And we the American people need to reawaken, of course, and study our rights, assert them.

However, there is one area that that remedy is not available; that is, with the judges who commit criminal actions from the bench because you cannot sue a judge from the bench. That is the law. That is the immunity the judges have given to themselves, and nobody is addressing how to handle that. You can sue the cop; you can sue the city, the county for one million and teach them a lesson not to do that again. But how do you stop a judge from committing a crime from the bench? And the other judges have a silent code of silence that they will not indict other judges.

We have cases where whistle-blowers who started speaking about this were jailed. Their habeas corpus were falsely denied. Once issued, they were hidden. They were given maximum six-months jail sentence. And we have all this proven and well documented. It's all their own court records. They're getting so arrogant, some of the judges – in particular, the traffic courts, municipal courts – that they're charging people for failure to appear in court; and on the same morning that the person allegedly is not there, they're arraigning him for that same failure to appear.

We have these cases, and there's a violent abuse that's going on on a regular basis. And I'd like to suggest to this committee – since there's no other remedy available to the American public, this is an outrageous event – that in order to stop American courts from becoming corrupt and criminal like Iran and China and other countries, that this commission in the future set some time that these matters could be brought to your attention, so the proper recommendations could be made to the civil rights commission and the F.B.I. and department of justice for proper criminal action the same way it's been done in the Rodney King case, in the Riverside beating, and so forth. And I thank you the commission for listening.

MS. BUITRAGO: Okay. Marvin Bryer? Amin David?

MR. DAVID: Socorro, Luz, Rosa, Eduardo, Bien Venidos to Orange County.

MS. BUITRAGO: Gracias.

MR. DAVID: I don't count things in 180 seconds. I'm a businessman. I'm here representing an organization called Los Amigos of Orange County. We will be completing 20 years of service to the beloved community in a couple of years, I believe, it is. Time flies.

Very briefly, four points. I have handed to your staff sworn testimony before an officer of the court of two individuals Jorge Alvarado and Jerry Sanchez who were beaten while in custody by the Anaheim Police Department. And all of this has had a shield of a code of silence, and the city participated in that code of silence. You need to burst that bubble. Read about it.

Voters, ladies and gentlemen, police misconduct may involve a few people and that is too many. But the civil rights violation of literally thousands of people in Orange County is about to take place. Every foreign-born American citizen registered voter is automatically suspect and whose records will be checked against very shoddy records handled by the ins. We are talking about gross civil rights violations of the citizens who have registered to vote, and here they are automatically suspects. You must immediately act to stop this situation.

The citizens' review board, ladies and gentlemen, is as old as police departments. And why is it that the chiefs of police that you heard here say, we don't need one? For goodness' sakes we report to a city manager; for goodness' sakes we report to the council. Why is there a planning commission? Why is there a community services commission? Why is there a redevelopment commission? What is the need of that? Because it gives citizens a possibility to participate in their fate.

Ladies and gentlemen, I think citizen input into the activities of the police department -- the time is ready for it now. It has to be. This is now. The pendulum swings ever too quickly for things not to happen, and it's time to do it now.

We also would like to respectfully petition the movement of a federal law that says juvenile police photos cannot be taken unless the parents approve. And that is irrevocable. That should be irrevocable and without exception; that no one can speak for the juvenile unless it's the parent. Thank you very much.

MS. BUITRAGO: Thank you. Irma Ochoa?

MR. DAVID: Who?

MS. BUITRAGO: Maybe I took -- let me see. Grace Howard.

I'll take you in the next panel. Sorry.

MS. HOWARD: My name is Grace Howard. I am an area manager. I manage apartment communities in Anaheim. And I would like to say that I would like to stand up for the victims, the victims of the gangs. No one once mentioned victims of the gangs. I see what residents have to go through with their personal belongings being stolen, where they're physically attacked; where they're beaten; but I haven't heard anyone talk about them.

As far as the Anaheim Police Department, I ran to them approximately four years ago, and I said, "we need help." You can't expect people to keep tolerating this gang activity. I don't care what race you are. I don't care what color you are. It has nothing to do with it. I just care about having my rights, my residents' rights, and my managers' rights protected.

The Anaheim Police Department has been ultra, ultra cooperative. They put on seminars for us. They inform us of everything we need to know. They have put together the react class which is wonderful. We have a meeting every month, and the Anaheim police will come to our meeting. We don't see the community coming. We don't see the people that should be there coming. I don't know why. All I can tell you is working with the police department has been one of the best things that I have experienced.

And I know people won't like this, but I wish we could get tougher on gangs. We don't need them in this society. I have four grandchildren that have to grow up, and I have to tell you I am very fearful for them. It's a disgrace. We should not have to live under these conditions.

Go look at the areas. Don't meet down here and look. Go look in the barrio. Go look where all the crime is happening. Then you'll understand why people are afraid. We have to lock our gates. I've had to put gates up so people don't steal our cars. I mean, that's not fair either. Why don't we think of those people? Why don't we think about all the victims, the children that are being shot with drivebys. I feel for the parents of the gang members, I really do, because it tears up your heart. I have children of my own, and it would break my heart if they were involved in gangs. But we also have to look out for the victims. They need someone to speak for them.

And I have to publicly say I want to thank the Anaheim Police Department for all they have done for the community. And they have done a lot. I have never heard of them refusing to go anywhere. So I want to thank you very much. And Chief Gaston, he has been a blessing because I've dealt with high officials that didn't want to listen. The man listens. He even changes his mind. Someone told me today how he changed his mind. That's a good man. He listens and changes his mind when he feels he's not right. That's all we can ask of any human being. The captains, they're always there for the community. The people who come to our meeting, if they have a problem, they go to the police. And they tell them what their problem is, and the police try to help. They can't solve everything.

One of the approaches --

MS. BUITRAGO: Ms. Howard, if you could summarize your comments.

MS. HOWARD: Okay. One of the things that I would ask everybody in this room: when you want to get something solved if you go to someone and say, well, you didn't do this and you didn't do that and why didn't you and you didn't, you're not going to get cooperation as easily. But if you go in and say, we have a problem. How can I help you solve it? What would my role in this whole thing be? I think we'd get a lot more cooperation. Thank you for listening to me.

MS. BUITRAGO: Thank you. Elvia Hernandez?

MS. HERNANDEZ: My name is Elvia Hernandez, and I've been living in Anaheim for 25 years. And five years ago, I moved to south county. My family has always been harassed by the Anaheim police. Every member of my family has been because of the way they look labeled as gang members accused of crimes. It's been very hard. I'm very fearful even now. I'm very fearful because it continues.

I would like to share an incident that happened to my granddaughter. She just graduated last Friday with her associates of science degree from Rancho Santiago College. In high school, Anaheim high school, she was an honor roll student. She lettered. She was in girls basketball, softball, dance production, student body; was in the princess – prom princess for two years in a row.

She has been -- one time she was at a ditching party. Every kid does things like that. The gang task force came. They made her sit in a puddle of water, and

then they wanted her to confess that she was a gang member. She was in tears. They were trying to get her to say what gang she belonged to. They took her photograph and said she was going to be in the gang -- as a gang member. They made her ride in the police car for half an hour with her head stuck out the window. They told her if she put her head inside the car she would be arrested; that she had to keep her head outside so that people could see that she was a gang member. They cruised all over town with her. And finally they took her back and left her in school. No one was ever notified of that incident until she later told us that.

The Anaheim police go out of their way to try to pin crimes on certain people as they have done to my family. They even now go to south county during the day dressed in civilian clothes, and they stalk our family. They have accused another member of my family of terrible crimes like car-jacking, attempted murder, drug dealing, receiving and -- having and receiving stolen goods. All these have been lies.

They've interrogated that member of my family; told him that he has been identified by police officers as doing these crimes, and a few hours later released him with no charges. They've taken clothes, photographs, everything they can from the apartment and kept them. Up to now they have not been returned to us -- those items. I am very fearful that they will plant those items -- those dirty clothes that they took from the laundry. I'm very afraid that they will place them at the scene of a crime.

MS. BUITRAGO: Can you please summarize your comments?

MS. HERNANDEZ: And I'm here as a concerned person. I am supportive of United Neighborhoods, and I also am in favor of the citizens' review panel that would look into these cases because who can you turn to when the people that are there to protect you are your number one enemies.

Thank you for listening to me.

MS. BUITRAGO: Thank you. Selinda Lopez?

MS. LOPEZ: Hi. My name is Selinda Lopez. I'm part of a group called Santa Ana community rituals. It was a group that started out of Los Amigos in 1994. They went on to do other projects. I thought what they did was something that was very worthy, so I continued.

We had 78 homicides in 1994 in Santa Ana. We had approximately 75 homicides in 1995 in Santa Ana, and in 1996 we had approximately 55 homicides. There seems to be a big problem there. And part of the problem, I think, is, like they said, the ripple effect.

You know, we're all here, and we're not here to defend gang members. We're here to talk about don't be accusing someone who is not a gang member of being one when they're not. Some people have that mentality that, oh, you look like one, so therefore you are one. We're not here to talk about that. Of course, we want the criminals to be caught and to be prosecuted; and, of course, we want justice, especially in our city of Santa Ana where the homicide rate is so high. You know, one person kills another, then that person kills another and another and another.

So we do need to have the investigators do their job. And if they can't do their job, maybe they should go work somewhere else, and they should hire some new people.

Besides that, there's a lot of other things I want to talk about, but I'll just touch on them a little bit. Another problem that we have is with the news media. Every time there's a homicide in Santa Ana, as well as other minority cities, there's just a little small article hidden inside the newspapers. With the problem that we have here in Orange County with homicides, you'd think they'd be making front page every single day so that everyone would get involved. But they don't do that. They just hide the articles. They don't want to know about how people of color are getting in and having problems.

I mean, if there's a person who's an anglo person who gets shot or something happens to him, they're in the news for days. They're on the front page. They get these big pictures. They get all this media coverage. But when it's a minority, it's like it doesn't count. And if you don't believe me, all you have to do is go through the Orange County register newspapers, and you can see for yourself.

Another thing I wanted to talk about is, you know, last year -- I'm 38 years old now. Last year I was 37. I was at my sister's house. There was a birthday party. And on my way home, I was pulled over by a police. And supposedly they identified themselves as gang specialists. And I was harassed by them. They had me, like, for half an hour questioning me trying to make me admit that I was a gang member and that I knew people who were gang members and that I was gang-related or gang-affiliated. And I was telling them, why are you doing

this to me? What's going on? I'm just a normal person. I'm a hard-working, law-abiding person.

Well, his response was that, well, somebody wrote gang graffiti on your car, and you must know who it was because it was written on there. I said, my car was parked outside.

Anyone could have walked by and done that. You know, this is my neighborhood. My sister lives down the street from where I live, so anybody could have done that. But they were there harassing me for half an hour threatening me and scaring me, making me feel like they were going to take me in if I didn't admit to being a gang member or knowing gang members.

And another thing is that I would like to know if -- there's kids across the street that have been in trouble since they were kids, but they come over to my house to borrow a flashlight or to bring over things, you know, food or to borrow the vacuum cleaner and stuff. I'm wondering if maybe just because they come to my house if they've taken my picture and if I'm in the file.

What I would like to see done is that everyone whose picture has been taken and is in a file in any type of government agency, they should be notified by mail that they have their pictures and what purpose they're there for and whatever. And like someone mentioned earlier, that we have the right to go to court and question that they have no right to have our picture because they have no reason. But we should be notified by mail, you know, because of this, or we should be told; but we need some type of formal notification.

MS. BUITRAGO: Please summarize your comments, Ms. Lopez.

MS. LOPEZ: Okay. I think that a lot of money is put into programs like target that want to put people in jail. To me, that is stupid, and that's the worst thing to go do. They should be putting money into gang preventions or violence prevention programs not into programs that put people in jail. They're just making bigger gangs in there. They're making the Mexican gangs, the Chicano gangs, the black gangs. They're just forming more gangs. They should use money to deter gangs not make more gangs. And the Mexican mafia is an example of that.

MS. BUITRAGO: Thank you. Thank you very much. We have three more speakers, and that's Irma Ochoa and Guynh-Tram Nguyen and Mr. Rios.

MR. MAC DONALD: I'm on the agenda.

MS. BUITRAGO: What is your name?

MR. MAC DONALD: Mac Donald.

MS. BUITRAGO: Oh, you know, that was at the beginning, but go ahead and sit down.

MR. MAC DONALD: Thank you.

MS. BUITRAGO: I'm going to start with Irma Ochoa.

MS. OCHOA: I'd like to thank the board for having me, for allowing me to speak. My name is Irma Ochoa, and I am the mother of a child -- he was a young man that was shot and killed by police in Riverside. I'm having a hard time. I would like to see the commission board come here because this is not an isolated case here in Orange County. It's everywhere.

and what I heard people speak today about targeted area -- target areas, you know, children are growing up and the police are stopping them for no reason at all just because they're in a target area.

My son happened to be in a target area. He was on his way home. He was 32 years old, but he had epilepsy. He was a little immature for his age. He could have been mistaken for a young teenager. His skin was brown. He could have been mistaken for a gang member, which he wasn't. He was not gang-affiliated. He had been in a rehab program and was on his way home. Earlier that day, he had been picked up, I guess, for loitering and taken into Riverside by Perris police -- by Perris sheriffs and later released in Riverside.

He was trying to get back home. I believe he was trying to probably even try to go back to the rehab where he had been. He had called me at 5 o'clock in the afternoon after I got home from work, and I asked him if he wanted me to pick him up. He said, no. He was going to wait for a friend to pick him up to take him back to the ranch. And that friend would not get there until 8:30. He called me a couple more times. The last time he had called me was 6:30, and that's when he found out that the friend that he was waiting for to pick him up and take him back into Perris would not arrive home until 8:30 that evening.

I offered again to pick him up, and he said, "no, I'll just wait for Dave." So he waited. At 7:15 he called me again, and he said, mom, come pick me up. He said, I am afraid. He said, come and get me. And I said, I'm on my way. This

was at 7:15. My husband and I left immediately. I live in hacienda heights. It would take 45 minutes to get there. By the time I got there -- we got there about 8 o'clock. He had already been shot and left to die. He was left to bleed to death because it took them a long time.

We were there. We saw how long it took for paramedics and ambulance to take him into the hospital, which was only two blocks away. They didn't allow me to see him. They didn't allow us to -- I knew he was alive because I asked. And he was still Breathing. They gave us no opportunity to see him. He never knew that we were on our way; that we had arrived. We never got to see him.

They took months before they gave us any kind of information. We had to ask a favor of an attorney to send with his letterhead to get the police report. They did not give us the police report until their internal investigations -- so-called -- was cleared. Those policemen are still working.

I know that he was falsely accused. They said that he had charged at them with a knife. And so that they didn't have time to use a taser gun. The newspaper clippings said that he had been sleeping -- I myself told him, why don't you sleep. Two hours is a long time to wait for Dave.

And I was afraid because he had told me it is a very bad area. This area is two blocks away from the police department, the detention center in Riverside. And it's frequented by drug pushers, by prostitution, by people that have just been released from jail.

So there are witnesses, but all these witnesses are afraid to speak up because either they have -- they are very intimidated. They are eyewitnesses. And she refused to talk. She's afraid for her own family and will not talk. So we have not been able to get help for this. So I -- you know, this has got to be stopped. There has to be an end to this abuse and this brutality. Thank you.

MS. BUITRAGO: Thank you, Ms. Ochoa. I'm going to move on to Guynh-Tram Nguyen.

MS. NGUYEN: Thank you. Thank you for your patience. My name is Guynh-Tram Nguyen, and I'm also a sophomore student right now.

I escaped my boat in 1985. I came to this country alone. On behalf of all Vietnamese, I'm cofounder of a life is working for indigent families. I contact them, but just because I'm community activist I went to jail. I met the law abuse, and it's amazing to me that today, first, I can speak.

since this morning until now, I rarely see any Asian community members come and speak about the truth. This is the first time I think that really, you know, I have that chance.

A lot of reasons why the community never come to you and speak is -- I'm a Vietnamese, and I learned -- even I learned English in my country, I can never speak, because they don't let me speak. I never learned democracy in my country in Vietnam. I learned it from here. But my community members don't come and talk because they feel they have been hurt. They feel authority. That's their past experience in Vietnam. The way they do it is the one who has power tortured them.

They also lost trust in the police because due to the rightful indirect contact, either direct contact or overheard about the contact all the members have fear of the police, so they don't want to speak to the police. They don't want to come to the police and do a complaint, and also because of ignorance.

Ignorance comes from the language barrier. If you cannot speak the language, how can you come and talk to anyone? No one will hear you. You just talk and nobody listens to you. They look at you with labels. That's why we lack the knowledge, because we don't have the language.

The counterbalance of power occurs when people don't know their rights. And if we educate the youth to know their rights, doesn't mean that they can exercise their rights. Nobody witnesses when the police stops the youth on the street. If the police really, you know, fill out a card, how do we know that the truth comes from, like, the time the youth is detained until the time the card is presented? We don't know. Nobody witnessed it.

My recommendation when you really take a look at this and want to do the civilian review board, I think we need to have youth representatives. Nobody heard the youth. Nobody really wanted to hear from the youth. What happened to them? Do they only don't speak like all the people say? I just think that's not fair to the youth.

And also the board members should come -- not just come from people with status in the community. I know a lot nonprofit community leaders who don't really care about community member or the grassroots people at all. They care for their own personal interest. So the grassroots group has to come up and to become a member of the board.

And when the police come -- anytime when the police interacts with the youth, there should be a witness. They have to ask some adult on the street they saw to come over and witness the interaction between police and youth. I think that's more objective. Thank you very much.

MS. BUITRAGO: Thank you. Mr. Rios?

MR. RIOS: My name is Gomercindo Rios, and I've been a victim of this program that they have. There was a warrant made out for search to my house. The search warrant said that it was a here-in into or into this. And they went in, and they tore my mom's house; tore it upside down.

Two days prior to that, they came in looking for my brother. My brother has been deceased for three years. He was a known gang member. They came looking for him knowing that he was dead. In two days, they come and they served a warrant on my house.

I am a small business owner. I have a silk screen and print shirts. They came, and they took screens from my house. They said they had gang-affiliated patterns on them. I took them. You know, I have that right to print whatever I want to print, and they have me as a gang member. I've never been a gang member or what they call associate. They have me labeled like this. They told my mother that they would come to my house when anything happens, and I don't think that's right, you know.

There's other people in our community where they've done the same thing they do with this Carter program. They went to her house. Both her sons are in jail right now, and they went to her house and literally destroyed the whole house, broke down the door; and both of her sons are in jail. And the warrant was for them. Knowing that they were in jail, they still went into her house telling her that she knows what's going on and that she's a gang member. This lady is like 40 some years old, you know. All she does is take care of her little kids. And that's wrong. And it's all the Santa Ana police department that's doing it. And that's what I want to say.

MS. BUITRAGO: Thank you very much, Mr. Rios.

Mr. Mac Donald?

MR. MAC DONALD: Thank you. My name is Bruce Mac Donald. I'm homeless in the fair city of Costa Mesa and have been for 17 months by the direct action of the Costa Mesa police department. This is not the form to recite all this to the

needs of the homeless. The only need of the homeless I care about, the only need that is also a right, the only need that this commission and the country needs to care about and concern itself with is equal treatment before the law and that includes due process.

Because the law -- the control law of the land governing what the state may do to man is the bill of rights, or is it? If it is not, then perhaps that's the source of all our troubles. And if equality before the law is not the single most important form of equality, then all of the other demands of equality are a sham or a swindle or a sign of a sorry eagle. They may be any, however, that's not my point.

Equality before the law including due process is my point. Equality before the law is not explicit in the bill of rights, the body of the constitution, or the declaration of independence, though it's implied in several of these. It's a guarantee most of us take for granted or on inference. I assumed it. Are we living in a fool's paradise? It is carved in stone in the form of the blindfold on she who holds the scale of justice.

I've recently learned that the bill of rights is not what it used to be. The due process clause of the 5th amendment only protects the person against actions of the federal government. That is bizarre, but I've learned that in court. I'm currently conducting a title 42 against the city of Costa Mesa. I'll get to that in a minute. I'm getting ahead of myself.

Cruel and unusual punishment applied by the police is not protected by the bill of rights or prevented by the bill of rights, before it happens, before conviction, if any. So there's two of the bill of rights gone.

Thomas Jefferson said, a bill of rights is what the people are entitled to against every government on earth general or particular and what no just government should refuse or rest on inference. Another one: when all this turns to be self-evident; that all men are created equal; that they're kept by the creator of certain unalienable rights --

MS. COURT REPORTER: Could you hold on for a minute?

MR. MAC DONALD: I thought you knew this one. It's pretty famous. -- that whenever any form of government becomes destructive of life, liberty, and pursuit of happiness, it is the right of the people to alter or to abolish it.

The federal charter I'm hoping to alter with an amendment making the guarantee of due process universal. The corporation of the government, city of

the Costa Mesa, I'm suing to abolish in federal district court. As I say, the city of Costa Mesa made me homeless. I'll tell you more about it in a minute. First, I'm going to tell you a couple of things about the condition --

MS. BUITRAGO: You probably have just about a minute.

MR. MAC DONALD: Well, I'm on page 3. I'm going to take a couple more because it gets really heinous.

MS. BUITRAGO: How are we doing in time, art?

MR. MAC DONALD: Is there a lineup of people?

MS. BUITRAGO: We're going to give you two minutes.

MR. MAC DONALD: On November 18, 1995, at 2:30 in the a.m., I was suddenly and deliberately attacked by armed and mechanized forces of the city of Costa Mesa for the infraction of sleeping in my vehicle, which I call my motor home but was a big, old, ugly, step van. I was taken to jail for 46 hours. My step van was impounded; and my motorcycle, which was parked beside the van, was left to be stolen. And it was stolen.

The charge against me was later dismissed in court, but that had no bearing on it because all the damage was already done and dismissing the charge just prevented me from a countersuit. It looks like I'm going to have to jump to the end.

It's a question of justice or revenge. There's no forgiveness for evil. You've hurried me. I could have told a lot of other stuff, but the only thing left is direct political action. If the outrage can be redeemed -- can be remedied and you have allies and organization, direct political action can be as elegant and as effective as that taken by Rosa Parks. But when the damage has been done and officially ratified and the remedy denied and you have no help, it can be as crude and counterproductive as that allegedly performed by Mr. Timothy Mc Veigh. You'll appreciate my case more closely resembles the latter set of conditions. You won't because I skipped three pages which told you how denial of due process has gone rampant throughout this case.

False admit -- oh, a parity of administrative claims procedure with the city trying to blow my case out of the court. I'm in a federal court without a lawyer. My case title 42 has survived and gotten stronger.

Two motions did dismiss --

MS. BUITRAGO: Mr. Mac Donald, thank you very much. Your two minutes are up and thank you very much. I apologize again for the shortness of time.

MR. MAC DONALD: My other car is a Ryder truck.

MS. BUITRAGO: Thank you very much. I need to conclude -- I'm going to be concluding. This concludes the California advisory committee's fact-finding forum on law enforcement agencies' conduct towards minority youth. The record for this meeting will remain open for a period of 30 days following this meeting and any additional day that can be submitted to the commission's western regional office in Los Angeles.

We thank all of you, especially the people who have been here since the morning and waited for their opportunity to speak this afternoon for participating in this fact-finding hearing. Thank you very much. And the meeting is adjourned.

(whereupon the proceedings concluded at 5:30 p.m.)

Certificate

I, Lilia Monarrez, California CSR No. 10637, do hereby certify that the foregoing is a full, true and correct transcript of my said notes and a full, true and correct statement of said testimony to the best of my ability.

I further certify that I am not interested in the events of the action.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at bellflower, California, this 7th day of June, 1997.

Lilia Monarrez, CSR 10637, RPR