

ARIZONA STATE ADVISORY COMMITTEE
TO THE
UNITED STATES COMMISSION ON CIVIL RIGHTS

Public Factfinding Forum
on the
Arizona Department of Transportation
Friday, March 14, 1997
Phoenix, Arizona

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Prepared for:
ARIZONA STATE ADVISORY COMMITTEE TO THE
UNITED STATES COMMISSION ON CIVIL RIGHTS

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The Arizona State Advisory Committee to the United States Commission on Civil Rights held a Public Factfinding Forum on the Arizona Department of Transportation on Friday, March 14, 1997, at the United States District Court Building, 230 North First Avenue, Phoenix, Arizona.

Present on The Arizona State Advisory Committee were the following:

The Honorable Manuel Pena, Chairperson, Phoenix

Mr. Adolfo Echeveste, Tempe

Mr. Rudy Garcia, Glendale

Ms. Angela Julien, Tucson

Ms. Patricia Kraus, Phoenix

Mr. Jones Osborn, Yuma

Ms. Ofelia Quijada-olivas, Sahuarita

Dr. June Webb-Vignery, Tucson

The Honorable Penny Willrich, Mesa

Mr. Richard Zazueta, Phoenix

THE FOLLOWING PROCEEDINGS WERE HELD:

CHAIRMAN PENA: The hearing will come to order. The attendance has been noted. We have a quorum, and we will proceed.

This meeting of the Arizona Advisory Committee to the United States Commission on Civil Rights will now come to order. I'm Manuel Pena, Jr., Chairperson of the Arizona Advisory Committee to the United States Commission on Civil Rights. The U. S. Commission on Civil Rights an independent, bipartisan, fact-finding agency first established under the Civil Rights Act of 1957.

The Commission on Civil Rights is an 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 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 the discrimination or denial of equal protection of the laws;

Serve as a national clearinghouse for information about discrimination; and

Submit reports findings and recommendations to the President and Congress.

State 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 laws because of race, color, religion, sex, national origin, age, handicap or in the administration of justice and to aid the Commission in its statutory obligation to serve as a national clearinghouse 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 of a citizen's right to vote and to have the vote counted by reason of race, color, religion, sex, national origin, age or disability, or that citizens are being accorded or denied their 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 policy of the Federal Government with respect to the 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 clearinghouse function.

The purpose of the meeting today is to obtain information and views relating to civil rights issues and employment practices impacting employees of the Arizona Department of Transportation. Participants in today's fact-finding forum have been requested to address the following issues:

The status of working relationships between employees and management at the Arizona Department of Transportation;

The number and nature of grievances and EEO complaints filed by Arizona Department of Transportation employees against the Arizona Department of Transportation;

Efforts to resolve disputes, grievances and complaints filed by aggrieved employees against the Arizona Department of Transportation;

The role of the State and Federal Oversight Agencies in assisting to resolve existing disputes and help prevent future disputes; and

General views on working relationships at the Arizona Department of Transportation that relate to civil rights and recommendations for addressing these problems.

Among those invited to address the Arizona Advisory Committee today are elected officials, representatives from the Governor's Office of Equal Opportunity, the Arizona State Legislature, Arizona Department of Transportation, the State Attorney General's Office the Equal Employment Opportunity Commission, and the United States Department of Transportation.

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 Advisory Committee in attendance during the meeting will be Adolfo

Echeveste, Rudy Garcia, Angela Julien, Jones Osborn, Ofelia Quijada-Olivas, Dr. June Webb-Vignery, and the Honorable Penny Willrich and Mr. Richard Zazueta.

We also have a staff person from the Washington office Ms. Lee from the Boston National Commission on Civil Rights. Also with us today are Western Regional staff members, Thomas Pilla, Stella Youngblood, and Grace Hernandez from the Commission's Western Regional Office in Los Angeles.

This fact-finding meeting has been held pursuant to federal rules applicable to State Advisory Committees and regulations promulgated by the United States Commission on Civil Rights. All inquiries regarding these provisions should be directed to the Chair or to Commission staff.

I would like to emphasize that this is a fact-finding 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, must 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 an unlikely event that this situation should develop, it will be necessary for me to call this to the attention to the persons making these statements and request that they desist 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 4:00 p.m. and 5:00 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. Commission staff is seated in the front row, Grace Hernandez and Mr. Pilla, and Stella Youngblood.

In addition the record of this meeting may be opened for a period of ten days following its conclusion. The Committee welcomes additional written statements and exhibits for inclusion in the record. These should be submitted to the Western Regional Division of the United States Commission on Civil Rights, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California. The zip is 90010. We can get that for you later on if you want to have it in writing.

Okay. We will now proceed with the people who have been invited to make

their comments. We will first hear from Irene Canales, who is with the Arizona Department of Transportation.

I want to make one other statement. No audience participation is permitted at any time during the proceedings. We will try to maintain some form of schedule. I would ask that the statements being made be limited to no more than ten minutes. We're not going to push it.

Ms. Canales?

MS. CANALES: Before I begin, I would like to ask that the timing of one of the individuals who was to present be deferred to me, because I will be going a little bit over ten minutes.

CHAIRMAN PENA: Who is that?

MS. CANALES: Monica Hernandez -- I'm sorry. Manny Hernandez, who was going to be presenting.

CHAIRMAN PENA: All right. Let me point out that he has agreed to respond to questions later on if necessary.

MS. CANALES: Good morning. My name is Irene Canales, and I'm an employee of the Arizona State Department of Transportation. I've been an employee for nearly eleven years. The first nine-and-a-half years I was the ADOT Employee Assistance Program Manager.

This is a program where behavioral mental health or substance abuse counselors are on staff to provide assessments, advise and make referrals on a confidential basis to employees who experience personal, physical, legal, financial, emotional, mental/behavioral health or work-related problems. This is a federally mandated program from the United States Department of Transportation as a result of the Drug-Free Work Place Act of 1988.

During the time I managed this program, I either worked the program with a staff of one, myself, or had at one time very briefly a staff of four, including myself. For most of the time I either staffed the program with only myself or one other staff person.

My program was responsible for being available to counsel 4,500 ADOT employees and their families throughout the State of Arizona. In addition we answered our own phones, greeted and received employees entering the reception area and did our own typing and filing. Please note that an employee-assisted program is recommended to have one counselor for every 1,800 employees.

In addition to providing mental/behavioral health classes to employees, I was also responsible for trying to educate and sensitize ADOT management in handling employees with problems or personality conflicts in the workplace. I did

this through one-on-one sessions, group sessions, or I would bring in outside professional consultants to assist me in accomplishing this task.

My position allowed me to gain the confidence of many of the ADOT employees, especially the minority employees who would ask to speak to either an ethnic racial minority counselor and/or a counselor who could speak Spanish. I meet both requirements.

My position was placed under the ADOT Director and Deputy Director. I was one of only two minority managers in the "Special Support Group." My peers in this group included managers of the ADOT personnel training, Affirmative Action and others.

My job was to report general problem areas to the Director or to the Deputy from specific complaints shared confidentially with me or my staff. I would then give recommendations to resolve the problems followed by the authority to resolve them with the support and approval of the ADOT Director's Office. I carried out my duties with the understanding it would be inappropriate and unprofessional for me to share any names of employees with ADOT management.

It was not long after I began employment with ADOT, I was told by the then Director that he had full confidence and trust in my abilities and judgment and problem solving. Therefore I would keep the Director informed of the number of employees my program assisted and the general problem areas that they fell into. I was given the independence to run my program as I saw fit for the best of the employees.

I had thought my relationship with the ADOT Director and/or Deputy would always remain positive and professional as I was proud to have brought the EAP program to serve as a model program for other State governments and corporate agencies in Arizona and throughout the country. My proudest accomplishment was when I was invited to serve on the panel at the White House Conference for a Drug-Free America in Washington D.C. I was the only EAP on the panel representing Arizona.

Complaints presented to me by ethnic, cultural ADOT employees which gravely concerned me were:

Point: Favoritism by management in promoting less qualified non-minority personnel over more qualified experienced minority personnel.

Point: Working minority employees out of class where they either were paid at a lower grade and did the work for their non-minority management or were in a higher pay grade position working beneath their capabilities doing demeaning jobs.

Point: Reports of retaliation after filing an EEOC complaint with the ADOT Affirmative Action Program or grievance with ADOT personnel.

Point: Use of racial slangs and name calling such as the words, quote, wetback, beaner, nigger, faggot, spics and others, by co-workers with the knowledge of supervisors who took little or no action to stop this offensive conduct.

Point: Denial of annual or sick leave.

Point: Refusal to allow an emergency phone call to be received by the employee.

Point: Having a door slammed in an employee's face.

Point: White employees making statements in front of a group that, quote, I'm not going to touch the donuts after the nigger has had a hand in the box, unquote.

Point: Older, poorer Spanish-speaking employees doing all the physical labor work while their white peers sit on the back of the truck and watch drinking water.

Point: Fear of losing a job simply because of being a minority.

Point: Enduring retaliation for reporting or, as it would be called, squealing on acts of discrimination that was done by white employees.

Point: Fear of being falsely accused of stealing, lying or cheating.

Point: Unwarranted disciplinary action, suspensions or terminations.

Point: Fear of management if a minority complained of acts of discrimination in the workplace.

Point: Fear for life or serious bodily injury at the hands of non-minority workers or faction of the Ku Klux Klan or Skinheads.

Point: Silently enduring emotional or mental abuse from either co-workers or management.

Point: Refusing to allow an ill employee to either go home or to a doctor's appointment.

Point: Working under verbal threats of physical harm.

Point: Use of intimidating tactics, such as by managers to encourage better performance. Examples are refusing to allow breaks, no talking while working or even challenging whether the employee really had to use the restroom.

I often reported to my management these problems and was always told not

to get involved in these types of issues, as they were not EAP concerns, but to refer them to the ADOT Affirmative Action Programs.

I did make these suggestions to the employees. These episodes have and still do occur in ADOT, as employees still report some of the occurrences to me during breaks or at lunch. I have always had a passion for helping people, and a compassion for those who suffer in pain.

Little did I know that after February of 1993 I would experience firsthand what other minority employees were telling me all of these years, and my life would change forever. In February of 1993 Larry Bonine was appointed to ADOT as the ADOT Director. He appeared to be very energetic, with the habit of slapping people in a friendly gesture, shaking hands and generally speaking, had a tendency to give physical pats to people when expressing a greeting or positive message. I was not comfortable with him, but I was eager to impression on him.

After two months went by, I was given an opportunity to meet him on a one-on-one basis. I was waiting for this meeting in the reception area of his office. He came out of his office to get a glass of water, and as he passed by the chair I was sitting in, he slapped me hello so hard on my arm that I was pushed into the lady in the next chair.

We both looked at each other in shock, but I didn't say anything because I realized that he was my boss, and I thought that he needed to find out that his friendly gestures were not appreciated. I did have the meeting with him, explaining what my program was and left hoping he would support the program as his predecessors had done.

In the months that followed I reported to Larry, Mary Peters, who was his assistant, and Tom Warne, his Deputy Director, reports of racial discriminatory practices occurring in the Department, and I was working with Suzanne Sale to bring in outside consultant in to help evaluate and address the minority employees' concerns of discrimination and racial bias.

I soon realized that Larry did not support me or my program, as he said to me, quote, "Employees don't need a counseling program. They just need to have their blood pressures checked by either a machine or nurse, as that will help them save their lives by going to a doctor and get medication when the readings are high," unquote.

He asked me to check on the cost of blood pressure machines, how many we would need throughout the State, if the occupational health clinics would take the blood pressures and the cost for both ideas. I did what he asked.

I reported what my findings were, and once again, I tried to explain that the employees did, in fact, need counseling to keep the blood pressures down.

I then shared the concerns I had about the issues being reported to me.

Larry Bonine told me that I was always being negative by reporting problems to him. I tried to explain to him that this was my job. He then told me he didn't want to hear about these kinds of problems. I felt worried that he wanted me to be a team player that only reported successes and positive information.

Meanwhile, I was asked by Suzanne Sale to bring in a consultant to look at the racial discriminatory issue that the employees complained of in her division, I suggested bringing in the Dr. Javier Perez to talk to the employees.

In May of 1993 a second episode occurred during the last meeting of the top 50 managers. Even though my position was a part of this group, I had not been invited to a meeting until Mary Peters asked me to attend. As it turned out, my first meeting was the last for the group as they were disbanding it.

During the break, I saw Larry Bonine walking down the hall, and asked him to clarify some information he told me on the telephone a few days earlier. As we stood in the hall in front of the men's room, he responded to my question by putting my hand on top of my head and started growling his answer in apparent annoyance that I even asked it.

He began pressing down on my head, shaking my head so hard that my neck was snapping and cracking. I felt extreme pain.

But what was worse is that Tom Schmitt, a managing engineer, came out of the restroom and saw what Larry was doing and began to laugh. I was humiliated, embarrassed and disgraced.

I went to the auditorium and sat in my seat next to a friend who was an engineer and told him what happened. He then laughed but immediately was concerned when he saw that I was upset and my neck was hurting.

In November of 1993 a third episode occurred when I brought a Ph.D. or a doctor to Larry's office to meet him and provide an outline of a training that she was to provide for Larry and the Division Directors.

After I introduced him to her, Larry shook her hand and turned to me, putting me into a head lock and asking her how she liked me. I was so humiliated. Indignity can't begin to describe how I felt. Complete devastation more accurate.

My colleague was shocked and made mention to me after we left how she could not believe what Larry had done to me and told me to be careful and keep a distance from him. She was concerned and said she was thankful that he had not been rough with her, as she is physically fragile. I have never seen a Mr. Bonine treat a male or a white female manager in this manner.

After suffering from stress due to these episodes, I agonized over what I

should do. My husband had been laid off from work, and I knew that I had to keep my job. I couldn't sleep, and after talking with two physicians, I was advised that I needed to do something about what had happened to me.

I confided in a friend in the Affirmative Action Office and realized after the discussions that the options available to me would get me nowhere. Because I knew that I still had to tell someone in order to prevent any similar episodes, I decided to confide in Mary Peters, who was now the Deputy Director of ADOT.

I spoke with Mary Peters, told her what had happened to me and that I wanted to be a team player, but I did not want Larry to touch me other than a handshake.

Mary asked me if I wanted to talk to -- wanted her to talk to Larry on my behalf and tell him what I just told her. I said if she could just please caution him that some people may not like him to be that physical and that hopefully would stop him from doing this to me again.

We then discussed Dr. Perez's report, and I told her that I agreed with his findings. I felt that ADOT had a long history of racial discriminatory problems, and it needed to be addressed.

A few days later Mary call me into her office where I was met by Mary and Lisa Wormington, the Affirmative Action Administrator. Mary asked me if I felt that I was being discriminated against in ADOT. I felt it was extremely odd that I was being asked this question in this way and at this time. It made me very uncomfortable.

My response was, quote, "If I did feel of way, I would not admit it here," unquote.

They then asked why, and I told them that many of the employees that I had counseled had cautioned me that complaints were not kept confidential in the Affirmative Action Office; that there were no minority employee advocates or top level advocate directors who were minority or who could be trusted.

I was then asked the question a second time, and felt I would not be able to leave that office without both of them becoming upset, unless I told them that I did not feel I was being discriminated against. I do remember thinking clearly this type of questioning should not have been happening by either one of these two people.

After this occurrence the following happened to me:

Point: I received the cold shoulder from Mary and Larry and was kept out of the loop of information needed for me to perform my job.

Point: I was informed that my EAP program would be privatized outside,

but was assured by both Mary and Suzanne Sale that I would be the coordinator of the EAP contract.

Point: I was asked by a manager what I had done to get on the wrong side of Mary and Larry, as they were very angry with me.

Point: I was asked to be on the team to privatize out my own program, but when myself and two others tried to take our time and do an efficient job in preparing the RFP, the three of us were simply removed from the team with no explanation.

Point: On October 23rd, 1995, Mary Peters called me into her office to tell me that I had about six weeks to find another job because my program was contracted out, and they needed my staff salaries to pay for the contract. She gave me three options, which were either to transfer to DES, take a buy-out or a reduction in force, and that she didn't recommend the latter. I told her that the first two were not options and that I was and still am a permanent status employees.

I then asked her if there was a position in ADOT that I could take and that it was important for me to remain in a management position to show other minorities that this Department does not lower the pay level of qualified Hispanics. I asked this because I had seen over the years positions created for white managers with no posting or notice of the job opening.

She said that she could not do this. I was humiliated and felt betrayed. In my opinion she had never intended to have me work as the EAP coordinator overseeing the contract.

Point: Other managers were coming to me and saying that they had never seen a manager such as myself treated so badly by ADOT Directors.

Point: In January 1996 I filed an EEOC complaint of retaliation and also testified before a subcommittee of this Commission.

Point: Mary Peters had to evaluate me three times to attempt to do it fairly, as she said. This was her first attempt to the evaluate me after I had not had an evaluation done by anyone since 1993. She failed in her attempt.

Point: Word was put out that I am no longer in my position, and I therefore began to get phone calls from employees asking if I was gone yet.

Point: I sit in my office, not receiving calls with few to no walk-ins.

Point: I am feeling isolated and ostracized by my peers with no communication from Larry or Mary.

Point: I am told to joint a team to work on the Malcolm Baldrige application.

When I explained to the team leader, Tim Jones, that I did not believe I could serve on this committee, as I was not in a position to say many positive things about ADOT management, he told me that he would then sit down with me and help me find something positive to write down. I suffered terribly at how this peer was so arrogant to me.

Point: Jerry Moreland, the ADOT Personnel Manager, called me to his office and with his subordinate told me I am to no longer to perform my job duties. This was on February 29th, 1996. He said that the EAP contract went into effect the day before. He asked me if Mary Peters had other work for me. I said that no, that she had not communicated with me in weeks.

Point: E-mail is sent out the news that my EAP program is gone. I receive nothing in writing in regard to the change or whether I am to act as coordinator, as I was led to believe and I thought I would be.

Point: I sit alone in my offices with no job assignments, no contact with anyone, or communication from my management. I feel as if I was in a tomb awaiting burial.

Point: I am approached by employees asking me what I am doing. I now begin to feel as though I have to justify my very existence. Some accuse me of taking much needed money from the budget because I won't leave.

Point: On March 28th Jerry Moreland called me to his office and told me that I am to take a position in the CDL Medical Review Program in the Motor Vehicle Division. When I asked to use my right to Reduction In Force, he told me that I cannot do that, and that I must either take the position or take a buy-out. I told him that I needed my job. He then told me that I must go to the Motor Vehicle Division. I was angered at the thought of how this man could take away the options that had been given to me by Mary Peters.

Point: On April 1st the only communication which I ever received concerning my job status came from Mary Peters, and said that I was to work with Jerry Moreland and move to the Motor Vehicle Division, period.

Point: I began to have nightmares daily, and I become ill, having stomach pains and sleeping very poorly. I suffer from severe stress, and my ADOT friends are concerned and angered and how I am treated and see I am not well.

Point: I packed up and cleaned out my three offices, conference room and reception area by myself.

Point: On April 8 my doctor placed me on medical leave, the first ever I had taken in my professional career.

Point: On April 22, 1996, Mary Peters calls me into her office to do an exit interview and was surprised when I disagreed with it.

Point: Since May of 1996 when I moved to Motor Vehicle Division to the present time, I have received no form of communication from personnel that I have been removed from my position as manager of the EAP Program. In fact, I am still listed officially with the same title I had when I was managing the EAP Program.

Point: My duties for the last year in the Motor Vehicle Division have been primarily to highlight errors on CDL medical forms, such as blood pressure and vision. This is what the lowest pay grade in that area does. I do this all day every day for all of these ten months.

Mary Peters never demonstrated any concern whether I was placed in a management position or not. I have seen her help other non-minority managers, but she never asked me if I was all right or to even communicate with me the changes I would endure or allow me to discuss how I felt about decisions being made without my input concerning my fate in ADOT.

Point: I was put on medical leave for the second time in my life in December of 1996. My health is the poorest it has ever been while working at ADOT. I believe that I was and I still am suffering from stress-related illnesses.

I presently remain in the Motor Vehicle Division without a title, job description, pride or dignity. I feel as though I have been demoted and punished for trying to do my job, which included addressing minority employee concerns and bringing them to the attention of ADOT management.

I am embarrassed when I see my former peers, and I see pity in their eyes. I am a female Hispanic, educated in two languages in two countries with the abilities to be a good manager, but I feel I was discriminated against by the Arizona Department of Transportation on the basis of my gender, race and national origin.

I strongly recommend that a legislative committee sensitive to minority issues lead an advocacy group from outside of ADOT. They along, with assigned minority advocates employees from within ADOT need to work together to address specific problem areas and eliminate those who practice and those who allow discrimination and racism in ADOT.

This is just the tip of the iceberg, as there are many more employees who have not had the opportunity to be interviewed by this Commission due to the fact that they have been reluctant to come forward because of their fear of retaliation. I would strongly recommend that their voices be heard.

It is my hope that through the investigative process which this Committee is undertaking, that ADOT management, ADOT employees and the Governor's Office will become more fully aware of their legal and moral obligation to identify and eliminated all forms of minority discrimination and bias in the workplace.

Thank you.

CHAIRMAN PENA: Thank you. Would you leave us your written statement so we can we'll have it copied. Are there any questions of Ms. Canales?

Mr. Osborn.

MR. OSBORN: Mr. Chairman, Mrs. Canales, you mentioned that there were verbal threats of physical harm. Do you recall that?

MS. CANALES: Yes.

MR. OSBORN: Who made such threats?

MS. CANALES: Employees reported to me that they were not -- they were minority employees that were telling me they were concerned and they were fearful because non-white minorities were bringing weapons to the employment -- into the workplace and verbal threats had been made that they were to be killed.

MR. OSBORN: So it's a variety of people who are employees of the Department?

MS. CANALES: Yes.

MR. OSBORN: Mr. Chairman, may ask another question?

CHAIRMAN PENA: Yes.

MR. OSBORN: Would you be able to give us the date of the most recent overt act of discrimination in your employment?

MS. CANALES: I would say that the latest would be as of May of last year, putting me into the Medical Review Program and having me highlight blood pressures or vision errors on medical forms all day with no other job responsibilities, no title, no job description. I would say that is the last act of retaliation.

MR. OSBORN: Has another manager of the EAP --

MS. CANALES: Yes.

MR. OSBORN: -- program been employed and put in place?

MS. CANALES: The program has been contracted out to a contact which is an external EAP program.

MR. OSBORN: I see. In the medical review program where you presently work, are you given regular full-time work, or is it just occasional work?

MS. CANALES: It's occasional work.

MR. OSBORN: Thank you, Mr. Chairman.

CHAIRMAN PENA: Richard?

MR. ZAZUETA: Mr. Chairman, Ms. Canales, you've mentioned there has been a long history of discrimination and racism at the Department of Transportation. Do you feel that this has been institutionalized?

MS. CANALES: Yes, I do.

MR. ZAZUETA: Thank you, Mr. Chairman.

CHAIRMAN PENA: Mr. Echeveste?

MR. ADOLFO ECHEVESTE: Ms. Canales, have you filed a specific grievance with your superiors, a written formal grievance on any of what you described that's happened to you specifically?

MS. CANALES: I believe I filed a grievance initially, and that was refused because I hadn't filed that within the time frame or I was not allowed to file a grievance on my specific evaluation, so it was denied.

MR. ECHEVESTE: But you do have -- you have a copy of what you attempted to deliver to your superiors?

MS. CANALES: Yes, I do. I also filed with the EEOC, the U. S. EEOC.

MR. ECHEVESTE: Thank you, Mr. Chairman.

CHAIRMAN PENA: Ms. Olivas.

MS. QUIJADA-OLIVAS: Thank you, Mr. Chairman.

You indicated in January of '96 you filed a EEOC complaint. Has there been an outcome to that?

MS. CANALES: That's an interesting point to bring out. I filed with the EEOC office in January 1996 and nothing happened, and still I have not received any word as to the results of the findings.

I did contact the investigator because I wanted to file a further retaliation complaint. She said to hold off, because she was waiting on a response from the affirmative -- the ADOT Affirmative Action Office. She said they had called and talked to her and initially said that everything was being resolved.

I told her it was not being resolved, and she said that they had to wait to receive that conversation from the ADOT Affirmative Action Office in writing. I have not heard from her since.

MR. ZAZUETA: How long ago was this?

MS. CANALES: This was in June 1996 I filed.

MR. ZAZUETA: And the follow-up conversation?

MS. CANALES: That was in April -- May when I was in the MVD. It was in May.

CHAIRMAN PENA: Ms. Willrich?

MS. WILLRICH: Ms. Canales, what do you believe would resolve the issues for you at this point?

MS. CANALES: Other than the recommendations that I have given?

MS. WILLRICH: Yes.

MS. CANALES: I'm not sure I'm at a point at this time -- a point where I can really answer that statement. So much has happened to me that I'm looking to resolve this problem right now for everyone and just to make the workplace a better place.

CHAIRMAN PENA: Doctor Vignery?

MS. WEBB-VIGNERY: Ms. Canales, the EEOC investigation, was there an on-site investigation?

MS. CANALES: I don't believe there was. I don't know. My only communication was with the EEOC investigator, and she said that she was informed by the ADOT Affirmative Action Program that the problem was being worked on and resolved.

I have not be approached by the ADOT Affirmative Action Program, and I did not, you know -- I did not hear anything further from the investigator at the EEOC office.

MS. WEBB-VIGNERY: Are there any other avenues to file a discrimination complaint with either a State agency, such as the Attorney General's Office, the Civil Rights Division, or the Affirmative Action Office of the Governor's Office in the Governor's Office?

MS. CANALES: I had called the Attorney General's Office, Civil Rights Division and asked for their assistance, and they told me they are not there to help employees. They are there to protect the State, and that I had no means through that office to get assistance.

As far as going to the Affirmative Action Office, the Governor's Office of

Affirmative Action, I felt extreme conflict of interest for me to get to that office because I was concerned of the level at which I was taking complaints. I was taking complaints of the very director that reported to the Governor, and I felt that was not an option for me.

That a neutral area had to be involved to help me at that level.

MS. WEBB-VIGNERY: Thank you.

CHAIRMAN PENA: In your previous position, were you the person that employees would take grievances to?

MS. CANALES: No, I was not. I was the person that -- usually the employees took grievances to the ADOT personnel office, unless it was a discriminatory complaint. Then that was taken to the ADOT Affirmative Action Office.

I received the employees usually after they were suffering from the stress of actually going through that process. They usually came to me and shared with me what had happened because they were stressed, and they were not well as a result.

CHAIRMAN PENA: Thank you. Ms. Julien?

MS. JULIEN: Thank you, Mr. Chairman.

Ms. Canales, you talked about a incident where you felt that you had to say that you didn't feel you were being discriminated against when the Affirmative Action officer was with Mary Peters?

MS. CANALES: Yes.

MS. JULIEN: The reason you felt that way is that you had reason to believe that your complaint would not be held confidential?

MS. CANALES: I think I mentioned that I didn't want to say anything negative because I felt that there wasn't an advocate in that room for me.

MS. JULIEN: Okay.

MS. CANALES: And what my complaint was about was the very people -- was the very person that oversaw both of those people.

MS. JULIEN: May I follow up?

CHAIRMAN PENA: Go ahead.

MS. JULIEN: And was there any further reason for you to fear lack of

confidentiality?

MS. CANALES: Lack of what?

MS. JULIEN: Confidentiality.

MS. CANALES: My feeling was that employees had told me, a number of them had told me, that there was no confidentiality obtained in the Affirmative Action Program, and also realizing that there were no federal laws in place, as there are for overseeing my program, that provide under the Privacy Act protection against repeating any information outside, I felt that there was no protection for me to keep this confidential in that room.

MS. JULIEN: Thank you.

CHAIRMAN PENA: Any other questions?

MR. GARCIA: I do, Mr. Chairman.

CHAIRMAN PENA: Go ahead, Mr. Garcia.

MS. GARCIA: Were you familiar with Affirmative Action plan for the Department of Transportation?

MS. CANALES: Yes.

MS. GARCIA: Were you ever made aware of it?

MS. CANALES: Yes, I was made aware of it.

MS. GARCIA: Were you familiar or did they explain the employee problem-solving procedure to you?

MS. CANALES: Yes, they did.

MS. GARCIA: One more question. Do you feel as you began to provide these complaints that this guideline was used?

MS. CANALES: That this guideline was used?

MS. GARCIA: That's the correct, the procedure?

MS. CANALES: Initiated by me?

MS. GARCIA: No. By the people hearing your complaint. Do you feel they went through the proper steps in either escalating the complaint or staying within the procedure, explaining as to why they couldn't move forward with it or what road blocks they were coming against in resolving your complaints?

MS. CANALES: Did I feel the group --

MS. GARCIA: The management group.

MS. CANALES: I'm not sure what the management group did because, again, I was not communicated with by management for almost -- well, for a year now.

MS. GARCIA: Did they ever refer to the procedure and justification for what they were doing at times when you thought a complaint was simply -- had just disappeared? Did they ever come back and say, "Well, it's at this step"?

MS. CANALES: No, there were never any discussions. Again, it was felt that I was not in a position to be dealing with racial discriminatory issues because that was not under the jurisdiction, so to speak, of my program.

MS. WEBB-VIGNERY: May I ask a question?

CHAIRMAN PENA: Yes.

MS. WEBB-VIGNERY: Thank you, Mr. Chairman.

Ms. Canales, with the procedure that was in place with ADOT for looking into an EEO complaint, was there a written statement of confidentiality within that procedure to your knowledge?

MS. CANALES: Not to my knowledge.

MS. WEBB-VIGNERY: Thank you, Mr. Chairman.

MR. ZAZUETA: I have a follow-up question, Mr. Chairman.

CHAIRMAN PENA: Go ahead.

MR. ZAZUETA: Ms. Canales, are you familiar with a program called the alternative dispute resolution program, kind of a mediation program that's been brought up by the State?

MS. CANALES: Yes.

MR. ZAZUETA: Did you ever look into it as a solution or mediation?

MS. CANALES: No, I did not see that as a solution. And once again, I felt that the level of which my complaint was at, it was a level above anyone in any Affirmative Action Office. It was dealing with managers, directors and the people that were supervised by the very Governor himself. And I saw it as a conflict of interest.

MR. ZAZUETA: Thank you.

CHAIRMAN PENA: Any other questions? If not, we thank you, and we're going to take a five-minute break to make our court reporter more comfortable.

(Recess ensued from 10:47 until 10:54.)

CHAIRMAN PENA: We will get started again. We will hear from Jose Puente from the Arizona Department of Transportation. I would like if you have a written statement that you would like to read to us, I would like a copy.

MR. PUENTE: I will have that before the end of the discussion.

I am Jose Puente, an ADOT employee. I am the occupational safety administrator for ADOT, with statewide responsibilities, departmental wide responsibilities to conduct, to monitor, to, in effect, oversee the ADOT safety program for our employees, our customers and contractors who have contracts with ADOT through our partnering processes through the contracts.

I am a Grade 23. I have been employed with ADOT seven and three-quarters years, having begun in May of 1989. I began my journey with safety in 1972 from the U. S. Army Transportation Corps, where I was commissioned as a second lieutenant. I am still serving as a patriot soldier and am stationed at Fort Huachuca as a logistic officer, as a installation transportation officer for Fort Huachuca.

I have worked with large organizations in the past, City of Tucson, City of Mesa, American Fence, American Transportation -- excuse me. American Transit Corporation, bus operations and so forth.

The opportunities that have been dealt to me have been extensive, and I have had large organizational skills that have been part of my training phase through my opportunities.

I think I probably would like to start off answering the primary question: In ADOT have I seen or have I experienced discrimination in any way, form or fashion? Yes, I have. Yes, I have experienced it. Yes, I have seen it. Yes, I've heard about it. Yes, I have counseled with employees that have been part of the process.

Mr. Bonine asked a question the day after the Super Bowl last year in a meeting with fellow Hispanic managers that he called in, and he asked us as he went around -- and there were nine Hispanic managers from all walks of life.

And he asked the question, "Have you been discriminated against?" It was a shot from the hip, if you will pardon the expression, but Mr. Bonine wanted to know. It was a blank question, "Have you experienced it or have you seen it?"

The first few people were afraid to answer. When it got to me, I told him, "Yes, I have, sir."

And it was an important part of the process because at that point I was about the fourth person to be asked. After that people began to realize that it was a fair question for a fair response. My response was yes.

And so with that regard, Mr. Bonine began to then advise us that he had not really ever dealt with the Hispanic culture in the past. He did not have any experience. He did not even consider Hispanics to be minorities.

The issue being that he called a group of Hispanic managers, and the essence was for us to educate him on our culture and educate him on how we think.

And so the process went from there to a more amicable meeting. In the process Mr. Bonine also stated to us that the only culture he had dealt with besides his culture, the Angelo culture, was the black culture. He had seen it in Mobile, Alabama, as the district engineer for the Corps of Engineers.

I had to explain to Mr. Bonine, and I asked him a question, "Sir, are you a Army colonel?" He said, "Yes." "Have you had experienced in the military with your 20-some-odd years of experience?" "Yes, I have." "Have you not ever run across a Hispanic person in your platoon, in your company, in your battalion?"

At which point he then told me, he says -- he answered the question, he said, "Yes, my first sergeant was a Sergeant Romero." He mentioned a Hispanic name. And I said, "Sir, what is the difference between that and today?" And that was the essence. I did not understand how he could not understand or how -- how he would not know that one culture -- one versus the other, black and Hispanic, the Angelo culture.

At that point it became evident to me that perhaps at this point it was a bigger concern than I had previously stated. At that point, at that meeting, I had filed discrimination charges through EEOC Federal, and I filed a retaliation charge after that meeting on the basis of couple of things.

One is he called -- the meeting that Mr. Bonine called and had us to show up, he would just randomly call people and have them show up. This time he randomly called all Hispanics, and it was a random shot, I presume, at 4,500 people. He was able to get nine people to come and meet with him.

So number one, it was a loaded question. At that point Mr. Bonine divulged information that, in effect, put me in harm's way for which I called a retaliation charge that he discussed issues that I had brought through my charge to the EEOC and in confidence at this point. And he was disclosing information that there had been charges filed and so on and so forth. On that basis I filed a charge. That is one typical example.

I would like to just for -- my outline of notes, I would like to go back to what has happened at ADOT and what we feel. I'm a professional safety person. There are seven people on my staff. There are -- there's one industrial hygienist, three safety consultants. There is an engine response specialist, my secretary, who also is a worker's comp person.

We're all professionals on my staff. Any of my staff members can take a problem and take it to resolution. So we're dealing with professional people here.

I'm a Grade 23. What does a Grade 9 have to contend with? What does a Grade 15 have to contend with? What does a Grade 17 have to contend with? If a Grade 23 has problems, to me there is a problem. And I have in my professional opinion and ethics code, I have to try to help those in need.

And for that reason that's why I'm here today. Having experienced this professionally and personally. I have seen blatant cases.

In one case the district engineer refused to let me teach a class in his district because my Angelo subordinate was sick. The topic was on confined spaces. I wrote the spec on confined spaces, which I serve on the Industrial Commission of Arizona Safety and Health Committee, and I help and promulgate the rules and the standards through the Industrial Commission Committee of Arizona and I worked on that committee in the '70s and '80s, and I have been on that committee to 17 years.

Topics that I know and I am supervising, and it would be very difficult for me to understand why I, as a safety professional, could not take the place of one of my subordinates and teach that class.

That having occurred, I taught the class. Immediately after the class the district engineer proceeded to ask my boss, Mr. Ray Ellis, who in 1990, roughly 1990, he asked for my individual subordinate to be transferred to his district. He would deal with my subordinate.

He had no need for further services from Jose Puente and his troops. The answer came back this is a centralized safety program, and we are going with that.

At that point the relations with the district engineer have not improved. If anything, there has been an eroding and compromising of the safety program within ADOT based on what I perceive to be no other reason except what I perceive to be the wrong color. That is the blatant.

The subtle, the comments. I'm referred to by Mr. Moreland, personnel director, as colonel. I earned that rank. I've had 26 years in the Army reserve, and I've earned that rank, and it's not to be taken likely. It's not to be stepped on. The President of United States and Congress gave me that. And Mr. Moreland uses it as a ha-ha nice little thing in that regard as I walk through. That's blatant and also it's a very subtle.

Going back to other practices I have seen, in the three meetings I had with Mr. Bonine from December of '93 to June '95, I brought up these issues as I'm speaking with you. The first meeting I had with him, Mr. Bonine lined up the State engineer, the Deputy Director, and he lined up three or four other people, and they were all there as an audience. And I was speaking to kangaroo court if you will. I met with them without notes. And the comment Mr. Bonine had was he was impressed, "No notes. 20 minutes. I'm impressed."

And so I was basically speaking from the heart. I know ADOT. I know the employees. I know the issues. I deal with the level where the employees are dead. That's a worse case scenario. There is nothing worse than them being dead.

We've had five deaths since 1988. My program has suffered, and I say my program, the one I'm charged with, the seven or eight people, also 45 or 50 people that have to work with us in the field. Those folks are not getting the services on the basis of a lot of innuendos, half truths and a lot of rhetoric and a lot of daily justification of our jobs. Daily justification of what am I there for? Who needs you?

Mr. Schmitt has said, "We can contract your services out at any time." "I know," I said, "Yes, sir. I was looking for a job when I came here." Those are the kind of rhetoric that goes back and forth. At times it is appropriate for us to respond and at times it isn't.

It never stops to hurt. It never stops to touch the very person who is responsible to carry the program through. It never stops to hurt.

However, I will pull myself out and go look at that young lady or that the person in the trench, and that's my main purpose in life is to keep them alive and get them home safely daily. And I have come through this process in order to be there.

On another occasion Mrs. Peters, my supervisor, wrote me up. I am probably the only manager in ADOT who works for the Director's Office besides Ms. Canales, who has had to deal with some kind of reprimand or disciplinary action or loss of job.

I received a reprimand, a letter of concern that did not go into my file. I have a copy. And the letter was based on some complaints from the district engineer in another location in Holbrook over an employee who had gone through the process of Affirmative Action, personnel, and had walked through all the stages of ADOT.

And they thought, "Oh, let's include safety. This guy has to wear steel-toed shoes." Mr. Schmitt brought me to the office, "I have a question. I don't want to rhetoric. Only two answers 'yes' or 'no.' Are maintenance workers required to wear steel-toed shoes on the job?" I said, "Yes, they are." "Thank you very much. That's all I need. You're dismissed."

This employee spent over 29 years in ADOT and had vied for and did not get a job as a supervisor within ADOT and this gentleman had spent 29 years. Unbeknownst to me, this person has a club foot. This person all these years has worked with a club foot. This person has put 29 years, has invested 29 years of his life into ADOT, plus now he is at a age where he has diabetes and cannot wear steel-toed shoes.

The issue came to me as a safety issue. I handled it a holistic manner. Safety, yes there is a way. DOA risk management. Get rid of the person. He can't work with steel-toed shoes. DOA risk management came back. That's what I was written for.

Sorry to take so much time.

It started in September of '94, and it went through March of '95 and at the end of March of '95, I got a letter of concern that I stood and defended an employee, and that employee wasn't going to be hammered out using safety as a driver. There were other processes that had not worked well. The employee is no longer with ADOT and for that reason I was written up. And based on innuendos and half truths and certainly a setup.

We've had issues with Mr. Schmitt, and Mr. Schmitt is a large player. He threatened or advised me that my job can be contracted out. I do take him seriously. I've always taken any engineers seriously. He's now the State engineer.

There were issues that Mr. Schmitt did not agree with us because we do emergency response for ADOT. And because he didn't agree with us, he was able to, as a State engineer, control my destiny. He could control an argument that would start in his office, and he could take it next door and basically have his way.

Basically needles that have been used and thrown on the side of the road, a mower comes along, one of our mowers, and they go all over the place.

You call Haz Mat. Who is Haz Mat? My unit. My unit has had orders to go only when required by Mary Peters, Thomas Schmitt, Larry Bonine and August Hardt. Only go when required. You respond drastically. Et cetera, et cetera, those kind of innuendos.

The needles need to be disposed of in a manner that the EPA will understand and buy into, but not only that, it's a requirement of the health department. Employees cannot be exposed to needles because of the OSHA standards that say you cannot handle needle.

We call Haz Mat. Half a day went by before we were called. ADEQ called us. At that time when I brought the issue to Mr. Schmitt, he took me in his office, and he told me basically -- and he has told me three times that I am full of -- and it's an expletive.

That one time he told me -- he put his foot up on the desk and he munched on an apple while he talked to me. That tells me I'm not anybody of any importance.

Another time he addressed me and said the same things after I had attempted, in a meeting with Mr. Bonine, to address issues. "You have too many of the same people serving on teams. You don't have the Hispanics. You don't have the lower class grades involved in teams. All you have is your favorite people on your teams. We need to address this. I'm one of your managers. This is advice."

Mr. Schmitt, at the break in front of a lot of people, told me I was full of -- and expletive again.

At this point now I have all of those managers who have heard me, have heard the discussion. And so, in essence, what I'm trying to say at this point is this regardless of -- regardless of how hard or how much effort we put into a program, all it takes is a bad word, a bad word.

And even a bad word from one of my co-workers, a bad word from someone who is angry at me, is one thing but to belittle me in front of my peers, over 100 people that heard, that is not acceptable by my standards.

So Mr. Schmitt has been a key player. So with that in mind I would like to say that in our daily tasks of justifying our jobs and our existence.

At times it appears that it becomes a burden, and Hispanic and other employees of minority status of color have carried the burden. The rewards are not evident except in the long days and then the next check maybe and maybe we can coexist.

In justifying even in my grade in ADOT as a Grade 23, justifying the abuse in my mind, it's mental anguish that I have to go through, and then I have to be a team player, and I have to buy into the corporate spirit of total quality management.

I see the walk -- I see the talk, but I don't see the walk. I see the daily briefings we go to and I hear the books being read by everybody, and they recommend this book and recommend that book. I don't see the walk, and it is very difficult for me to buy into something when I see that employee who had an accident who is never going home again. It's rhetoric in my opinion.

In closing, I would like to say this: ADOT, in my opinion, participated in institutional racism, and my personal efforts to identify the issues to bring them forward for Director Bonine, to Deputy Director Peters, to Mr. Schmitt and Mr. Hardt and folks who are at a high level within the Department have fallen on deaf ears.

We love our jobs. I work 18 hour days. I get up at 3:00 in the morning to do a Haz Mat call in Seligman on duty. That's my duty because one of my fellow employees is out there, too. And the reasoning behind my duty is because when they're on duty, I'm on duty, too.

So with regard to falling on deaf ears, that's what it is. As we love our jobs, we're loyal public service. We have diligently done our professional tasks on behalf of the State, our fellow employees, for our families, for the community.

We serve on United Way. We work with our little league teams. We go to church, and we participate actively. Among other things that's our duty.

So all we ask for is fair treatment. No matter how hard we try, the system is not responding, and we have now staked our jobs because I know my job is on the line.

Mr. Schmitt told me that. And then Mr. Schmitt is in the position where he can affect that. And then our reputations are on the line that's what is going to feed me. I have 20-some-odd years in the business, and I have a good reputation, and that is what is going to continue my employment in the future.

Our resources and stamina, yes, we have put them to test. We have pushed the issue out of ADOT's trenches. This is why we're here. We tried the trenches, and it wasn't working.

So as to create the better environment for our fellow Latino and other minority employees in ADOT, our future may look bleak now. Either we do it or we shut up. We must step forward. We must be counted. Our children and grandchildren do not need to be dealing with this issue. This has been going on long enough.

This vicious cycle must stop. We've chosen this route to effect viable change. We are able to make change. We can do if we're given the opportunity.

I am out of the loop. Ms. Canales was out of the loop. My office is on Beardsley, 16 miles away. All other managers of my status are right under the wing of the Director at 206 South 17th or within range. I am 16 miles away, and I have to fight the traffic when something comes up, and I don't know about the meetings that are going on. I missed one last week. Didn't even know about it.

So this is going to enable us once and for all to have an active role in charting our destination, and that is our inalienable right. It's guaranteed by the Constitution of the United States, and we deserve to be happy. We deserve to live in harmony with our fellow Americans.

For we can do our simple math -- or you can. You can figure out that Latino employees are not represented well in the higher echelons of ADOT, and if they were -- and we have excellent engineers -- we would be among the district

engineers. I don't know of any district engineers of Hispanic culture.

Deputy Directors, never given the chance. Division Directors and positions that enable us to effect change and to be able to make the difference between the economic strata of those jobs that we now occupy.

I thank you and can I answer any questions?

CHAIRMAN PENA: Thank you. Any questions?

MR. OSBORN: Mr. Chairman?

CHAIRMAN PENA: Go ahead.

MR. OSBORN: Mr. Chairman, Mr. Puente, you're using an abbreviation I'm not familiar with, HAZMAT.

MR. PUENTE: Yes.

MR. OSBORN: What does that stand for?

MR. PUENTE: Short version of hazardous materials, and I neglected to mention that my office is responsible for the Code of Federal Regulations that control the handling of material regulations under the 40 CFR, 29 CFR, which is labor, the 49 CFR, which is transportation, and the 30 CFR, which is mine health and safety. All of those affect us, and so I apologize for that.

MR. OSBORN: That's all right.

Now, I'm interested in the exact date, if you can give it to us, when Mr. Bonine called you in along with some other Hispanic employees of ADOT and asked if you were aware of any discrimination.

You mentioned the Super Bowl. What year Super Bowl?

MR. PUENTE: Yes, sir. That was last year, the Monday after the Super Bowl.

MR. OSBORN: '96?

MR. PUENTE: Yes, sir.

MR. OSBORN: What do you think occasioned that event by Mr. Bonine?

MR. PUENTE: Well, by that time I had filed.

MR. OSBORN: You had filed?

MR. PUENTE: My EEOC complaint.

MR. OSBORN: Do you think he was aware of that?

MR. PUENTE: Yes, sir.

MR. OSBORN: You do?

MR. PUENTE: He mentioned at that time, and there were some letters that went to Mr. Bonine from a couple of our centers and our representatives, and he mentioned that he had received one that he was particularly upset about.

That was Mr. Hamilton. He mentioned Mr. Hamilton, and he went into some detail enough to where I was somewhat compromised at which point I was --

MR. OSBORN: Are you aware -- would you say the atmosphere at ADOT has substantially changed, improved, or gotten worse or stayed the same?

MR. PUENTE: Sir, when I --

MR. OSBORN: Since then.

MR. PUENTE: Since '89 yes, we have gone -- it has gone to the detriment of the employees and the well-being of our organization in my opinion.

MR. OSBORN: Thank you, Mr. Chairman.

CHAIRMAN PENA: Doctor Vignery?

MS. WEBB-VIGNERY: Thank you, Mr. Chairman.

Mr. Puente, I had a couple of questions. Just for clarification, one statement you made was that the only other -- you were the only other manager of ADOT who had received a reprimand; is that correct?

MR. PUENTE: That was basically in the context, yes.

MS. WEBB-VIGNERY: In your file.

MR. PUENTE: Okay. There were two managers in the diversity report of 1993 that were reported, that ADOT commissioned, if you will. There was mention of two managers who had been removed from the Director's Office and had been moved elsewhere.

The two managers would be myself and Ms. Canales, who was with the Director before Mr. Bonine came along.

Mr. Cowen came aboard. We were sent to Administrative Services, and I was basically speaking to the issue of those two same managers are still -- still the two of us. Ms. Canales has lost her position. I have been reprimanded, and in my opinion I am in harm's way.

MS. WEBB-VIGNERY: And a second question. You mentioned district engineers.

MR. PUENTE: Yes.

MS. WEBB-VIGNERY: And I gather you are one of the district engineers?

MR. PUENTE: No, ma'am. I'm Occupational Safety Administrator. The District Engineer would be a Highways Intermodal Division to head up the district.

There were four in '89, and there are now ten.

MS. WEBB-VIGNERY: To follow up, are there any Hispanic district engineers?

MR. PUENTE: No, ma'am.

MR. ZAZUETA: Mr. Chairman?

CHAIRMAN PENA: Mr. Zazueta.

MR. ZAZUETA: Mr. Chairman, Mr. Puente, are you the highest ranking Hispanic in the Department of Transportation?

MR. PUENTE: Sir, I really can't answer that exactly. I don't know the pay grade.

But I'm Pay Grade 23, and in discussion with Mary Peters, is one of the top covered positions in the Department. So beyond that level they go uncovered.

So Grade 23 is presumably one of the highest. In the last few years possibly some have moved into closer range. I don't know the exact answer. At the time when I first came, I was among the top.

MR. ZAZUETA: Thank you.

CHAIRMAN PENA: Mr. Echeveste?

MR. ECHEVESTE: Mr. Chairman, Mr. Puente, I'm not sure if this question is appropriate, but I want to pursue it based on your statement, and perhaps maybe it's not appropriate of you, but I'll see. I'll put it on the table.

You stated that in your opinion you feel there is institutional racism?

MR. PUENTE: Yes, sir.

MR. ECHEVESTE: In pursuit of that, one of the pieces of information in our packet is the Affirmative Action chart at the Department of Transportation. I don't know if you're able to give me the answer, but I'm curious as to the staff that is shown here, what racial ethnic background does this represent? For example, the Director?

MR. PUENTE: That's the Affirmative Action officer.

MR. ECHEVESTE: It's Affirmative Action Administrator Lisa Wormington?

MR. PUENTE: She's an Anglo woman, yes.

MR. ECHEVESTE: Her administrative secretary Karen Poppleton?

MR. PUENTE: Yes, Anglo.

MR. ECHEVESTE: The Equal Opportunity Specialist IV, Eddie Edison?

MR. PUENTE: Yes. Black.

MR. ECHEVESTE: And a Specialist III, Travis Benton?

MR. PUENTE: Black, sir.

MR. ECHEVESTE: The Specialist II, Carolyn McMahon?

MR. PUENTE: Anglo.

MR. ECHEVESTE: The Specialist II, Tom Moore?

MR. PUENTE: Anglo male.

MR. ECHEVESTE: There is a vacant position, Specialist II, so hope springs eternal.

I'll stop there with my questions at this time.

CHAIRMAN PENA: Anybody else? Mr. Garcia?

MR. GARCIA: Mr. Chairman, Mr. Puente, in your seven-and-a-half tenure, you have received periodic evaluations, I assume, for that period?

MR. PUENTE: Yes.

MS. GARCIA: What type of scores did you receive?

MR. PUENTE: Initially there was a learning phase, getting used to the Department. It went from fives to sixes to sevens to sevens and eights.

Change came along and there was one evaluation around sevens and then when I went back to the Director's Office, because I was transferred back in '93 early '93, there was a period where I did not receive an evaluation for a couple years.

After that, evaluations have been in the fours, fives, sixes range. And the last one up in the four, fives and sixes and the last one was a little higher.

MR. GARCIA: What would that represent, above average performance, four, five, six?

MR. PUENTE: That's subjective, obviously. The manager that I worked for has a different range, different than I do. In my shop seven and eight would be an extremely good rating. And the fives and sixes would be in the average. Anything below that would be need some help.

MR. GARCIA: So going to this reprimand that you received, which I believe you indicated you felt it was somewhat retaliatory, that would be inconsistent with the evaluations that you received?

MR. PUENTE: Yes, sir.

CHAIRMAN PENA: Ms. Willrich?

MS. WILLRICH: Mr. Chairman, Mr. Puente, you would consider yourself part of the upper management of the Department; is that correct, part of the top administrative staff?

MR. PUENTE: Yes, ma'am.

MS. WILLRICH: As part of the top administrative staff has there been any diversity training for the management itself?

MR. PUENTE: No.

MS. WILLRICH: Let me also ask, Mr. Puente, one of the comments that you made was that you thought there was institutional racism, and the comments that have been made by yourself and Ms. Canales has made, at least, pointed to Mr. Bonine as the Director at the time.

One of the things that I'm learning, is this something that has been a part of the Department prior to Mr. Bonine becoming the Director and it's just a carryover, or is it something that came on as Mr. Bonine took on as Director of the Department?

MR. PUENTE: It's been going on for a while. This is a long-term problem as I mentioned in the last statement.

My concern was that in '93 I took the time and put myself in harm's way with Mr. Bonine to explain to him what I was hearing and provided a mechanism which I felt because of my influence and because of my abilities to speak two languages and to communicate with people in the field, that I could be of assistance.

And between '93 and '95, that was not taken advantage of. In fact, Mr. Bonine in May of '95 told me that he didn't want to hear any more comments from me about Hispanics and racism and so forth because he was tired of hearing it, and that he would rather that I concentrate on my job and get those accidents down and get the program going.

So at that point this is why now I believe Mr. Bonine has as Director of ADOT the responsibility to resolve that.

MS. WILLRICH: One follow-up question, Mr. Chairman.

In our materials we've been provided with the diversity plan for ADOT. What you're saying in answer to my formal question is that the top administrators have not been trained in terms of diversity and applying that in supervision for other staff?

MR. PUENTE: I believe what you have there is a report that was generated by the task force and that it was began but did not see its way through. I don't know how far up the organization through the organization it went.

I was provided a copy as a result of starting LaVoz, and we were using the report to try to find out where some of the problems were.

MS. WILLRICH: Thank you, Mr. Chairman.

CHAIRMAN PENA: Mr. Puente, were you with ADOT when James Creedon was acting director?

MR. PUENTE: Yes, sir.

MS. WILLRICH: Can you tell us about any difference in racial attitude under his leadership and with the current leadership?

MR. PUENTE: Yes, sir. I certainly can see there was a major difference. Mr. Creedon was 100 percent better. Mr. Creedon was well on the way to understanding and resolving issues.

He understood it and he dealt with it, did not tolerate -- in my opinion, did not deviate from his professional attitude. And it was much better.

CHAIRMAN PENA: So in your opinion things began to get worse racially after Mr. Bonine came on board?

MR. PUENTE: Yes, sir.

CHAIRMAN PENA: Thank you.

Ms. Julien?

MS. JULIEN: Mr. Creedon was acting director in 1992 when the diversity team charter was established; is that correct?

MR. PUENTE: I don't remember the days.

MS. JULIEN: He's listed as Acting Director. My question is we do have this copy of the diversity team charter, mission statement, five-year plan.

To your knowledge has that diversity team continued to meet and work and communicate to employees, or has there been an official disbanding of that team?

MR. PUENTE: They haven't met because one of my employees was on the team, and he hasn't gone to any meetings. It's been quite a few years since they met.

MS. JULIEN: But to your knowledge has there been any official statement as to whether or not that team still exists?

MR. PUENTE: That I don't know.

CHAIRMAN PENA: Ms. Kraus?

MS. PATRICIA KRAUS: You talked about the letter of reprimand. Can you tell me specifically what that letter was in reference to?

MR. PUENTE: It was directed at my activities when I mentioned I had been set up. The District got with the Director's Office personnel and Affirmative Action, and they asked for a conference call.

And as I'm 16 miles away, I'm running back and forth between buildings and between sites.

So we set a specific time. I went to my office and took the call.

And essentially what I was reprimanded on was an oversight on my part. The reason I believe I was set up is because I took the case in September, and in January still things had not been resolved.

And into March, we now are trying to get this employee evaluated by a

professional doctor, second opinion -- third opinion by this time.

The District laid the responsibility on me. Personnel, Mr. Moreland did not even field the call, nor did any of his representatives who could have advised us on personnel issues.

The District personnel were all asking to have Joe Puente set the appointment up. We must have one of the foremen, one of the supervisors from Holbrook go with the employee to the doctor's office, because Joe Puente is feeding information to the doctor that is not true. That is a Tech III who does certain things according to this the PDQ that was on file at personnel.

I work via cellular so we had that faxed over to the doctor's office. District was upset about that, and they wanted a certain supervisor to accompany the employee in question to the doctor's office and sit with him in the doctor's office and explain to the doctor this PDQ is not correct. In fact, this is what this employee does. So they did not trust the employee to tell the truth. Certainly did not trust me to tell the truth. Obviously that was kind of the setup it was. I got to call this employee.

I had an eye injury, and I was recovering from it. And I had my staff working on this, and I forgot to call that gentleman. That gentleman and I worked safety for six years before and there is no reason why I would not have called him. It was an oversight.

On that oversight the District complained, filed a letter, E-mail, hate mail and the basis for the reprimand that I received was on their allegations and some words taken from the medical report, which I allegedly planted or had the doctor know.

One particular case would be that the employee when he goes there, this would become a workers' comp. I administer worker's comp for ADOT.

It's the responsibility of an employer to inform the doctor if the employee is going to change doctors. The employee cannot change doctors on their own.

I was facilitating for the employee. The employee was my key issue. This person could not work. He was going to be out of a job. I needed to make it. That employee walked in and he brought his wife from Flagstaff and they were there. The doctor had all he needed, but all of that was used in the letter.

I had no -- there was no way I could convince my supervisor that it was wrong the way the employee was being treated, and I did not deserve the letter. I was upset about myself and also about the employee.

MS. KRAUS: One more question. The status of your EEOC case, have you heard from the Committee on any follow up?

MR. PUENTE: From the federal EEOC?

MS. PATRICIA KRAUS: Yes.

MR. PUENTE: Yes, ma'am. I've got some letters back. And they informed me that we have at right to go to mediation through the Governor's Office. I spoke with a gentleman from the Governor's Office.

And I chose not to pursue that because I felt that my best interest would not be represented. How could, in fact, an appointee of the Governor represent me when my Director is also appointed by the Governor as are the key staff at ADOT?

So I did not feel it would be in the best interest. I had already tried. I had done what I felt I needed to do with the Director to try to help.

I guess at this point it was not going to do me any justice.

MS. KRAUS: Thank you, Mr. Chairman.

CHAIRMAN PENA: Mr. Echeveste?

MR. ECHEVESTE: Mr. Chairman, Mr. Puente, the letter of reprimand that you received, the employee that you were attempting to facilitate the process which you are responsible for, was this an employee that -- how long had he been in the Department or she?

MR. PUENTE: This gentleman had been in the Department -- he was a 51-year-old male at the time. Been with the Department 29-plus years.

MR. ECHEVESTE: 29 years. Was this higher level, lower level employee?

MR. PUENTE: This employee had worked his way up to Maintenance Tech III, which as high up as they get without going into the supervisor level, as I recall the system.

MR. ECHEVESTE: 29 years. Was this employee a minority employee or Angelo employee?

MR. PUENTE: This gentleman is a Hispanic male.

MR. ECHEVESTE: Do you feel that you were doing your job, meaning your responsibilities, in attempting to implement your job properly with an employee and it resulted in a reprimand?

MR. PUENTE: Yes, sir, because the district engineer went to my office, from Holbrook and he asked me -- he needed to see me. When he came to my office, he said, "You're Hispanic. This gentleman is Hispanic. I need help. This gentleman is not too bright. You need you to help me to get him to understand.

He doesn't do real good on his reports, very well on his reports. He has problems understanding direction, and so as a Hispanic to Hispanic I would like you to facilitate this for me."

This is why I poured my soul into it.

In the sense that I supported the Department, I supported the engineer and I supported the employee which is what I'm supposed to do.

I assigned that function to one of my subordinates, Mr. Roger Cox. And he is the one that did all the background work. When I brought that to Mrs. Peters', attention she would not hear of it.

In fact, since he brought the Hispanic issue up, I pulled myself right out of it again. I felt it was appropriate because I have to continue a holistic approach in dealing -- I have to advise employees of their rights, and I have to protect the Department.

We have a good track record with worker's comp as well as incident rates despite the problems we have had. As I mentioned earlier, I go back to the trenches when I need to blow off steam.

I go back to the trenches. I put my efforts into people that want the help.

MR. ECHEVESTE: Follow-up question. I'm having difficulty understanding. They asked you to facilitate with this employee.

Was there an outcome that the Department wanted that was different from what you did? What did they want then, from your opinion?

MR. PUENTE: My professional opinion, not personal, I felt that this employee -- they were using safety steel-toed shoes as a final recourse to very easily phase this person out, retire him medically, get him out of the way and allow the new supervisor to function without this gentleman being around. I believe that is really the whole intent.

MR. ECHEVESTE: And that's why you were asked to interject yourself directly?

MR. PUENTE: Yes, and I believe I served him well.

MR. ECHEVESTE: I see. Thank you.

CHAIRMAN PENA: Ms. Julien?

MS. JULIEN: Mr. Chairman, Mr. Puente, going back to a different issue, the day

after the Super Bowl meeting.

MR. PUENTE: Yes, ma'am.

MS. JULIEN: You said that Mr. Bonine referred to issues in your complaint. I'm curious about whether you feel that during that meeting your colleagues were aware that those issues came directly from you; was that inferred or stated?

MR. PUENTE: Yes, ma'am. I felt that threat, and I felt that I had been basically brought in, and Mr. Bonine had used it as a point of reference.

If I had volunteered the information, I would have volunteered to end the process before it went through due process.

MS. JULIEN: And when you were invited to this meeting, did you have any idea what the purpose of the meeting was?

MR. PUENTE: No. As a matter of fact, I scheduled to be off that day. My cousin was in town for Super Bowl, and I couldn't be with him.

I was asked to come in there.

MS. JULIEN: Through memo or phone call?

MR. PUENTE: Phone calls, and I don't recall if there was a memo.

MS. JULIEN: And there was no -- you didn't know what the meeting was regarding?

MR. PUENTE: No, I didn't. It was a meeting which when I walked in, I saw the faces, and I heard the discussions, and I knew what it was about.

CHAIRMAN PENA: Take any other questions?

MR. GARCIA: One more. Mr. Puente, what do you feel would be a remedy for what you've experienced going into the future for the Department?

MR. PUENTE: Well, sir, among other things, the threat of a daily existence of a program, it does exist for me, the daily threat of not having a job because it could be contracted out or privatized.

As a matter of fact, today -- I'm scheduled next week with an alliance team supposedly re-engineering and I'm part of it. I don't know what it's about. They met last week. I wasn't there.

The essential thing, one, I never be threatened with their job because we have other important things to do.

Secondly, there ought to be a commitment to a program, and there hasn't been budget. Staff, my administrative staff is gone.

Clerical pool is gone. Others have plenty of staff around. I see them. Software, hardware is not available.

So what happens is in my business it has occurred since I've been there, is I began to do my program and become effective and make people accountable for what they're supposed to do, then the budget begins to wrap around you and become an issue.

Budget, commitment to the program, and I'm not sure as to where I'll be, but I think that the existence of a safety program in ADOT is essential. And I believe that I have done a good job with the program.

So I would like to see continuity. I would like to see respect, dignity. I would like to exercise my amendment rights to the effect I have a right to be happy. I've earned it. And so have many other people in this department that I represent.

CHAIRMAN PENA: Doctor Vignery.

MS. WEBB-VIGNERY: Mr. Chairman, thank you.

Mr. Puente, one question, is there any place in the State apparatus that you felt you could go with your complaint?

MR. PUENTE: No.

MS. WEBB-VIGNERY: Thank you.

MR. ZAZUETA: I have one followup.

CHAIRMAN PENA: Go ahead.

MR. ZAZUETA: Is the safety program funded through federal funds?

MR. PUENTE: Well, sir, we receive money from the Construction Highway Funds. I would -- I don't know the answer to that, sir, to tell you the truth.

I don't know how far, but it is a federal requirement, OSHA through Congress, the Williams/Steiger Act of 1970 mandates that we have a program that protects our employees.

I presume because of that and because the State receives money and ADOT receives money from the Federal Government, yes, sir, that would be my basis.

MR. ZAZUETA: Thank you, Mr. Chairman.

CHAIRMAN PENA: Any other questions?

We thank you, Mr. Puente, for being with us today.

MR. PUENTE: I'll provide a copy of these as soon as I get them in writing.

CHAIRMAN PENA: We would like to hear from Mr. Arthur Stanley. Mr. Stanley is a retired former employee of Arizona Department of Transportation.

MR. STANLEY: Well, before I get started, I would like to ask that you be a little patient with me, because I've had a couple of strokes, and the old mind is not what it used to be.

It's not quick. Now, I have all the information you might want, but it might take me a little time to get it. How about that?

CHAIRMAN PENA: That's fine. Could you just maybe tell us about some of the specific racial things that happened to you?

MR. STANLEY: First of all, let me let you know who I am. I'm Arthur Stanley. I'm one of the only blacks that was in ADOT in '84. And the section that we're dealing with here, I was the only black.

I was hired into this place in February of '84. The day after I was hired I walked into the agency, thinking I should thank the Director for selecting me because I needed a job.

And there was a Caucasian secretary sitting there. And she tells me, she said, "Mr. Stanley, I know you're from Seattle, Washington." She said, "I want you to know that you should not thank that fellow, because he didn't select you because you were the best applicant. He selected you because he had to!"

Okay. Now, I didn't go any further than that, so there are a lot of innuendos there, but anyway, as soon as I came aboard ADOT, I was, let's say, put into some very trying situations. And I would say that those situations were stressful, very difficult, because this was a job for at least two men. But I needed a job. And I did those jobs.

I want to highlight some of the things, the reason we're all here. These two people have made some magnificent revelations to you. But I want to give you some devastating stuff.

They tried to kill me several times, kill, k-i-l-l, kill me several times. But this was always construed as an accident.

I have numerous, numerous EEOC resolutions for right to sue. But I didn't want to sue the State. I didn't want to sue the State. I wanted to be treated like a human being. That's all there was.

Anyway, I worked in this department, and the first director -- under the first director, he was atrocious. Not only, as the young lady said, he was forced to hire me, but the man, he hated a black person on his staff.

Anytime you work with non -- I ain't going to say this. We're all going to say this, so I can say this. When you work with white folks -- I'm from Louisiana. I know white people. I have been associated with white people. All right.

If people are always telling me jokes with Asians, Mexicans, or whomever, me, white folks telling me about these folks, just as soon as they get out of earshot of this black thing, they're going to tell jokes about this nigger, see? That's why I don't play with people with nicknames and jokes. I don't want them to think I'm funny, but it's just my experience.

Born down there and kicked and pushed and shoved, and you had to survive. That's why you took a lot of this stuff down in Louisiana.

When I was young, as you ladies and things that are here, see, when I was a kid, it was a survival technique for you not to respond to the mess that we're getting here at ADOT. It's against the law. It's uglier than anything I've ever seen in my life what is going on over here. They had dinners -- I'm in the Department -- that I did not know about unless I went back to the tool room to get equipment or tools.

Now, if I'm ad hocking too much, you know, it doesn't seem like continuity, ask me a question later. Make me to straighten it out. I want you to understand where I'm going with this.

ADOT, they had parties, dinner parties at work. I didn't know anything about them, and I was at work. All right. Some of the atrocious things, like any missing tool, they came up with, I'm just throwing these little things so we can cover it all. I want to get it down. You write down your notes and make me answer it.

As I am saying, if a tool went missing in the agency in the whole warehouse, "You know that nigger stole that tool. That's where that tool went." If some damage came up to a truck or a car, it was written and the special investigators had to clear me of one of them. And the only justification was I wasn't even at work when the darn thing was wrecked. But I was accused of doing these things.

I don't want to be too fragmented here. Maybe I better read some of it.

CHAIRMAN PENA: Go ahead.

MR. STANLEY: All right. Okay.

Plaintiffs were given unusual job assignments by the defendant. I'm calling the defendant ADOT. Can I call this fellow's name that was my supervisor? Hello?

MR. GARCIA: He wants to know if he can say the name of the supervisor.

CHAIRMAN PENA: In what context did you want to?

MR. STANLEY: The fellow that was my supervisor.

MR. GARCIA: Just for the record.

MR. STANLEY: Roy Sukanik was my supervisor, and he gave any a mandatory assignment.

I was to demolished a portion of a building. And I was to refurbish that section of the building. Then brick, masonry, drywall, plaster and rerun the wiring through that building. Now, doesn't that sound like quite a bit for a fellow that is supposed to be a Maintenance I and Maintenance II? These fellows talk about 23s. We're talking about 10s, you know, level of pay, level of pay. It was a 10.

But anyway, this one big old black fellow, they gave him all of this work to do with no assistance. But I had some great, great assistance. I called great assistance, friends in the company. They knew I was no goof-off because I did the work of these two or three men every day because I didn't want them --

This is my son back here in the corner. I just look old. I'm not really old. See. That's my baby. All right. Well, I want him -- I wanted him to see daddy going to work every morning so he can tell the kids at school my daddy works for the State and tell the teachers that his daddy has a job. That's why I did all of these hard things. This work.

But as God will bless you if you put forth the effort, I don't want to call any of these fellows' names that are still working at ADOT. But any of you folks been in the military?

CHAIRMAN PENA: Well, yes.

MR. STANLEY: When you've been in the military, and you've never gotten in trouble, your stripes were solid gold. They weren't red, and they weren't white. They're solid gold.

Well, they got that kind of a man back there. See that -- I don't know what he is over there. I'm going to the big one over there next to my son, that Mexican. That man took me through it.

He helped me. Don't call his name. I don't want you to know his name. But this man with all the hate there was for this black fellow in this organization that you have over here, they put me to work with him, because, see, they had laid a paper trail.

All of you been an administrator you know what a paper trail is. That's justification to get rid of the sucker that you don't want anymore. That's what the paper trail is. Well, they had laid the paper trail, but the black boy was not as ignorant as people thought he was. He could write and his wife was a doctor, and she went to school to be a lawyer, but she didn't like the law, because there was no truth in the law. That's what the law is. She became a doctor so she could help people.

Now, she also helped me with my writing and taking notes. That's why I have notes here for almost every week I was at ADOT.

But anyway, this young man here, he helped me to take what I -- to work. He took me, you know, under his arm there. I had gone to electronics school, but, you know, if you don't use it, you lose it.

You all see where I am. I'm a little hitting and missing here. What I am saying is I went to electronics school. But being big and black here in L.A. -- this is not L.A. This is Phoenix. They wouldn't hire you.

You ever look at the ADOT people out here working on the streets? How many black folks do you see out there? How many black people do you see in those buildings downtown with a tie on behind one of those desks? I'm talking about somebody making the decision about selecting people in those organizations. There are none, not in ADOT.

Well, but I wanted to work so I could keep the job anyway with this atrocious organization. I would never sue ADOT because you couldn't get a lawyer to take your case.

This is the most assistance that we've got in all of these years I've been here, and how I've been mauled and misused. Discriminated against.

You know, you go to your management and tell them about how these people are treating you, and the manager of these departments will tell you, "Don't you ever come back to my department again telling me that discrimination is in one of my units."

Well, I know I just want to hit all of this stuff, you all, and if you don't understand what I am saying, you make me answer the questions.

MR. GARCIA: You're doing fine.

MR. STANLEY: Due to the discrimination, retaliation and unfair treatment committed by the defendant -- and I call them the defendant, ADOT -- the plaintiff, that's me, suffered and continues to suffer emotional distress, mental anguish, even physical harm, including arbitrary and unnecessary weight gain.

I would like to just touch on the physical harm. As I stated it, they had me

working in the basement of the building. Have you folks ever been to ADOT over here, the old, old, MVD building?

CHAIRMAN PENA: We're all from Arizona.

MR. STANLEY: Okay. I just want you to get a picture. Say, for instance, this is the ground level here. This is the back of the step.

Well, to get into the basement of ADOT here there is a stairwell here you go down in inside the building. We have a forklift sitting up here, with tearing down some walls in there. We call it demolition. We're tearing out these walls.

And you got to hang a bucket, big old trash bucket, trash barrel on run, a chain around it and put it on the hoist, the fork, different prongs so it can lift the thing out of there for you, and you can take it out and dump it. Dump the cement that you're tearing down inside there.

Do you know my director never having gone to school for a forklift, driving a forklift, saw me down in that hole, hit that lever while I was in that hole. He wasn't helping me. I'm the worker. I was operating the forklift.

Do you know he hit the lever and that barrel came down, and I just happened to look up and that barrel is coming down loaded with cement. And it hit me ever so slightly, but it sent me to the hospital. But I have a paper showing that that was an accident.

Well, he also left a man in charge one evening after he left. This man threatened to shoot me. Went to his truck to get his gun to shoot me. Well, I don't know how brave you folks are. I think I'm pretty brave because I was raised in a family where I was the only boy. I had to protect those girls.

But I flew, I ran out of that building to tell the police. And I went to EEO office, too, right there, ADOT EEO office. They did nothing, but I went to call the police, and they came back with me, and they sent me home.

And the man that went to get his gun, he never went home or anything else. He didn't go to jail, either, but they let me go home for the rest of the day. When I came back to work the next day, I was shocked to death that the man was still there.

But I just hope you folks can visualize the things that I'm trying to give you. It's awful over there, and I don't know. You might be lucky to not get Mexican or black because it's awful over there, folks, for minorities.

Now you don't even have any minorities working. They got rid of the lady that helped the poor folks, the little people. This lady here.

I would say I want to go back to my friend over there, this young Spanish

man. They put me to working with him because that was my ticket out of there for them. They went and interviewed him. After he worked with me for about a month and said would you write -- help us with this evaluation. He said sure. But when -- I guess he shocked them to death. He said it's the best man I ever had. Can you imagine that? Here is a big old fella that worked. Just don't scare me none, never did.

How do you think I loved that fellow after he told these people I was the best worker he ever had. I know he might have had some good ones. He never had anything better than me. That's just life. If you know you're good, you might be just as good as you want to be. But you're not going to be better than me. That's the attitude I have. That's why I want me son to be like that.

But anyway, see, and I just took this job in the first place to matriculate up through the system because my profession is administration, you understand. I came here to be an administrator, and I will be darned I couldn't get the job no place.

The first job I went to, they was going to hire me at a warehouse, but I had no idea what the pay was. But when they told me \$5 an hour, I knew I had to do something different. I couldn't work for that kind of money. I didn't want it.

But I should have taken the job because I've had to go to work -- what do you call it? -- from the employment office they ship you out to these little jobs, and you work day by day, part time or something, what whatever you call it. Place you on jobs and you get \$3 and something an hour minimum wage.

But anyway, that's what forced me to go to work with ADOT. I thought I would matriculate right up through that system. I was hired in as a Maintenance I. I was a Maintenance I for four years. And the manager came through the Department and said elevate this fellow to a Maintenance II.

Now, they also promised to send me to school and teach me all the things there was to learn about building these walls and things. But I didn't -- not before they put me to building the wall.

They put me to build that wall by myself. All I got was a blueprint. You have to go pick up your own material and nobody to show you what to do, what kind of nails to use, what kind of tape you might need. I got the blueprint, a screwdriver and a hammer. And they sent me on that job by myself.

But as God will -- you all know God, hopefully you do -- you know I built that wall with that junk. It's still up there, too. The wall is still up there.

Okay. I'm going to hurry and get through with this. You got me nervous looking at me so quiet, and I don't know if you're intrigued or what.

CHAIRMAN PENA: We have some questions for you.

MR. STANLEY: Before you get to the questions, these differential terms and conditions of the Department, including harassment not experienced by whites, similarly -- whites similarly situated. In other words, in that organization, they had to know nothing. They come to work, and they put them -- when they did realize I could put the wall up, I taught the white boys how to tear the wall down and how to put the walls up.

Now, hopefully, you folks aren't offended by these things. I have no -- there is no ill feelings in my heart. It's just like you folks sitting there. You look just like my sisters. I don't have any brother. All of my sisters are just as light as you folks are. You know that.

My mama is lighter than most of you because we are Creole, and I'm one of the unique ones in the family. Don't be offended. I'm not ashamed. I'm just as happy as I want to be. We got some help here. How you all feel about that? We got some help here. You folks listening because you can help me?

If you don't help me, you're going to help somebody eventually because you're going to correct that situation down there. That's what your job is, I think. Isn't it? Okay, boys.

Before I irritate my son back here, I'm going to get through.

CHAIRMAN PENA: Mr. Stanley, could we ask you some questions now? Would you like to summarize?

MR. STANLEY: There is a couple things I want to say and then okay.

I want you to know I mentioned this paper trail earlier. Paper trails are normally highlighted with EPAs. Are you familiar with that term, folks? If you're not, I'll explain it to you.

EPA is an evaluation form. What people do when they are malicious, wrongdoing people, they go and get these forms, have not interviewed you at all, and they got all of this information in your folder.

This is what we found over here at ADOT. On me, a man has never told me anything about how to build a wall or how he wanted a wall. But we find here in one of the EPAs I got some notes from the EPA, but we won't go into it. No basis of truth in any of this stuff. I mean this is just wrongdoing, man. Wrongdoing.

And then when you think about not only your director but his boss, you go and tell his boss about the discrimination in his department, and what you're trying to do is just work out the problem, because you want him to correct the fellow that is over you. You want the manager to correct this fellow here, and you know you couldn't get any of that kind of satisfaction. You get chewed out for saying he had somebody in there discriminating against you.

Okay. But I want you folks to know that everything I have said with you is the truth and I haven't said it all. It's almost like the Bible. They didn't write everything that Jesus did in that Bible, but everything in there is true. That's what I think. Okay.

Come on with the questions.

CHAIRMAN PENA: All right.

Let me thank you for your statements. We really appreciate it. I think you were talking about Manny Hernandez as the person who helped you on the job?

MR. STANLEY: All right.

CHAIRMAN PENA: Okay.

MR. STANLEY: That was a very good choice you made. But any of the fellows back there is the one that I was talking about. They all know how atrocious it was for me, how scared I was coming to work when in the wintertime you're coming to work, being at work in 6:00 in the morning. It's dark out there, and folks talking about shooting you, hanging your head on a totem pole someplace. It's scary.

You almost feel like bringing a gun to work but you need the job. You need a job. See?

But you know it's all the fellows that was in that organization that were non-majority. They were all good, but Manny is an outstanding man. He has no fear.

CHAIRMAN PENA: Let me open it for questions from the members. Richard?

MR. ZAZUETA: Mr. Chairman and Mr. Stanley, you reported all of these attempts on your life, these racial slurs? Did you report all of them?

MR. STANLEY: Let's say I reported everything that happened to me to Mr. -- I don't want to call his name. I reported it, and he wrote it up. To Ron Courter. Ron Courter told me on numerous occasions, but I kept going back to him. I had no place to go. You can't go to Ron Courter's boss, but you had to go to the boss of somebody.

I reported everything that happened to me to Mr. Ron Courter. But these people have gotten so arrogant in their mistreatment, they don't have to hide and do anything to you.

MR. ZAZUETA: What did Mr. Courter do about them?

MR. STANLEY: He wrote me up one time. He wrote me up and told me -- one time, the last time, which was just before I had the last heart attack, that he wrote me up and told me not to come back in his office no more with any of that discrimination crap.

MR. ZAZUETA: Thank you.

CHAIRMAN PENA: Mr. Echeveste?

MR. ECHEVESTE: Mr. Chairman, Mr. Stanley, how long were you employed with the Department of Transportation or the State?

MR. STANLEY: February of '84 to February of '93.

MR. ECHEVESTE: '84?

MR. STANLEY: '84.

MR. ECHEVESTE: To '93?

MR. STANLEY: Yes.

MR. ECHEVESTE: Mr. Stanley, when you left -- why did you leave eventually? Why did you leave the position?

MR. STANLEY: ADOT?

MR. ECHEVESTE: Yes. Did you retire? Was it a medical retirement? Or what was the circumstance?

MR. STANLEY: Let's see the date I left. I had a heart attack out here on 17. Scared to death. Does that answer the question?

MR. ECHEVESTE: Yes. So basically then you took a medical leave?

MR. STANLEY: Stress.

MR. ECHEVESTE: Medical retirement?

MR. STANLEY: Yes.

MR. ECHEVESTE: Would you say that you would attribute that stress then to your work environment?

MR. STANLEY: I would say all of it was that environment, yes.

MR. ECHEVESTE: Thank you, Mr. Chairman.

CHAIRMAN PENA: Doctor?

MS. WEBB-VIGNERY: Thank you, Mr. Chairman and Mr. Stanley. You say you had a stroke. Did you have the stroke come after your employment?

MR. STANLEY: No. I just -- I had just picked me boy up from the baby-sitter, driving home, and let me tell you, I've heard the fellow. I heard it said that no one knows about the pain of a lady having a baby. Heart attack is painful. It's painful. And I don't know which one of those rascals are worse.

MS. WEBB-VIGNERY: Could I clarify that? You had a heart attack and then was that followed by a stroke?

MR. STANLEY: In the car? I was in the car, and I don't know -- well, I tell you. I believe God took care of me because he wanted me to come here and have you folks to come and help the folks coming after me to work for ADOT to serve our citizens. See. That's the only reason I think I'm still living.

And I want to see this old boy of mine get through this school. He's the last one of mine that is not out of school, so all of my kids are doctors except him. I have two college professors and three doctors and one C.P.A. and I want him to get his education, too.

Okay. But back to your question, I had just left work, went by the baby-sitter, picked him up and going up Ray Road, and it hit me just across before I got to Rural. And I don't know how I did it, but I got home. Let me tell you. It's awful. It was awful.

I think I must have -- it's just instinctive. I thought I was gone. It's one of the most atrocious feelings that I've ever had in my whole life.

MS. WEBB-VIGNERY: Thank you, Mr. Chairman.

MR. OSBORN: Mr. Chairman, Mr. Stanley, in the literature that the Commission has been provided with, it mentions that Ku Klux Klan literature and symbols were left in your work area?

MR. STANLEY: Yes, sir.

MR. OSBORN: Was that just on one occasion, or was it more than one occasion?

MR. STANLEY: Well, they found some Ku Klux Klan stuff in my supervisor's desk.

This was put over the area you have to go to to get your equipment to work. And I guess --

MR. OSBORN: So are you saying that it just was on one occasion or more than one occasion?

MR. STANLEY: Well, I went and got the police, you know. They wasn't going to do it any more, I hope.

MR. OSBORN: Did you know who put it there?

MR. STANLEY: They never told me.

MR. OSBORN: Okay. Thank you.

MR. GARCIA: Mr. Chairman, Mr. Stanley, you said that you had numerous EEOC -- you referred to them as resolutions.

Were those actual complaints that had been filed on your behalf?

MR. STANLEY: It's possible that I can have you folks reproduce this and get a copy and give it back too me.

MR. GARCIA: I think we were going to get copies of everything. What were the outcome of those complaints?

MR. STANLEY: Normally if the resolution is favorable, you get a right to sue. And I have resolution here, action, settlement and then one of them they arbitrarily took some time from me because the man didn't -- there is a policy when you have taken off sick, if you get sick, you got sick and something happened to you and you went home, went to the doctor or you didn't go, but you could come back to work tomorrow.

But for me this is the first time I got sick. They told me I needed a doctor's slip to come back to work.

MR. GARCIA: So was that the complaint that you filed?

MR. STANLEY: This was just a for instance, I think. I was just talking about the incident. I got a couple with me.

MR. GARCIA: You did get responses from your complaints?

MR. STANLEY: Do you want the actual grievance? I just have the resolution here.

MR. GARCIA: I'm curious if they ever did follow through and provide you a response to the complaints that you had?

MR. STANLEY: Some of them. Now, I hate to say this, man, ADOT is awful. But you also might need to go down the street right there and I'm going to shut

up. I'm going to leave that alone. I'm going to deal with ADOT.

You're right. Maybe they didn't respond to all of them. Maybe they did. But whatever they didn't respond to, you will find out after you see my folder. I have a stack of paperwork at home like so, sir, in reference to ADOT. And everything is in it from grievances to say refuting stupid reprimand letters. I don't want to bring anybody else into this today.

MR. GARCIA: My only closing question is you left in '93 because you had retired or you had a stroke and had to leave. Do you have any knowledge of anything having changed since you left?

MR. STANLEY: Yes, sir, yes, I do have a little knowledge.

MR. GARCIA: And what would that be, no improvement?

MR. STANLEY: Well, when I left, they did have some Spanish guys over there. They're not over there now. There is no blacks. Since '84 they had two blacks in there, and three or four Spanish guys. There are no Spanish guys in there. So don't ask about the blacks.

MR. GARCIA: Thank you.

CHAIRMAN PENA: Mr. Echeveste?

MR. ECHEVESTE: Mr. Stanley, you said when you were describing an incident before, you said there was Ku Klux Klan materials in your supervisor's

--

MR. STANLEY: And paraphernalia in my work area.

MR. ECHEVESTE: You said in your supervisor's desk?

MR. STANLEY: They took that from his desk. But now they took it. They didn't give it to me. They didn't explain any of it to me.

But I think you can get that information from the police.

MR. ECHEVESTE: Was it on the desk?

MR. STANLEY: In the desk.

MR. ECHEVESTE: In the desk. That's all I wanted to know.

CHAIRMAN PENA: Any other questions? If not, we thank you, Mr. Stanley, for being with us today.

MR. STANLEY: Thank you.

CHAIRMAN PENA: Is Hope Hernandez present? Is Mr. Perez in? Would you come forward. We were hoping that Hope Hernandez would testify with you, and she may step in while you're talking. And we'll have her sit with you and participate.

We're going to make a temporary appointment. Ms. Olivas will chair the meeting until I get back.

Go ahead.

(The Honorable Manuel Pena and Doctor June Webb-Vignery left the hearing room.)

DR. PEREZ: I'm Javier Perez.

I'm a psychologist in Phoenix. I work with 15 clinicians providing mental health services to individuals, families and organizations.

In 1993 I was contracted by Suzanne Sales of ADOT to do a diversity training program. And we concluded that program about two months later.

The first session held was January 19 of '94 -- I'm sorry. 1994 we started. And we did the last session on March 30, 1994.

I spent 68 hours in direct contact with administration and supervision and employees. The initial plan was to work with a total group of employees at general operations, GOG, general operation group, which I think was a facilities maintenance kind of a group, and the whole group was supposed to get diversity training.

It was evident in the first meeting, which was facilitated by Tom Moore of the Affirmative Action Office that the sentiments amongst the co-workers was extremely negative and angry.

Comments were made by all members of that group that any new program is likely to be a waste of time just as other programs had been.

At least moderate to severe anger was evident in the group. Several individuals, at least I would say six of the twenty employees felt that a potential for violence was a very real likelihood in this situation.

Confounding the issues of diversity training were issues of reports of preferential treatment.

(MS. WEBB-VIGNERY re-entered the hearing room.)

DR. PEREZ: What we did after the first meeting is to decide to do a different program than a canned program for training, and we asked the employees, the

workers -- there were 20 of them -- to tell us what they wanted to have occur in this program.

They wanted to find information about all of the other co-worker's feelings, so we designed in a meeting two surveys, basically designed by the employees about information that they wanted to hear.

(The Honorable Manuel Pena re-entered the hearing room.)

DR. PEREZ: The result of that survey, which was about sixteen questions about preferential treatment, witnessing discrimination in the workplace, et cetera, the results were that as to discrimination was perceived, and had been reported witnessed by about twelve of the twenty participants.

Regarding preferential treatment, approximately sixteen of the twenty respondents responded that at least a few times too often preferential treatment occurred.

So basically what I perceived was this was not a group of three or four minority group members complaining with a majority seeing it as frivolous complaints, but there were actually numerous Angelo or mainstream individuals who supported that they had witnessed events.

So basically because of the negativity, we decided to meet with a group of minorities and with other groups in which the minorities would be interspersed according to pulling a name out of a hat or a number out of a hat.

The meetings with the minorities -- basically the purpose was or ended up being to document years of incidents that had been alleged by them, and probably many of them had not been reported by them because it was a complete sense of hopelessness that anything could be done that would ever resolve any issue.

But many apparently had been reported. In my report there are about six pages specifically discussing events which the minority group members considered to be major concerns.

One of the anger events -- I'm just going to read what I have in my report, one of the events that demonstrated the anger, an angry exchange between a minority worker and Angelo worker.

The minority told the Angelo, "I need your support. Why don't you say what is going on here? Haven't you got any balls?" This is the intensity emotionally. The minority in a pleading manner says, "Don't you understand it would be the end of my job?"

Because of that we decided to separate those groups, and I was hoping to empower the minorities to organize. Not so the Department of Transportation could explore what had been going on, even though it had not been reported.

I believe it may be helpful to just go over a few of the items recently -- that was three years ago -- recently to that time, the KKK information had been placed on minority worker's desk. That seemed to be within the last six months of my having been there. This was three-and-a-half years ago. Ropes were hung and crosses were placed in office windows.

The terms nigger lover, destroyer, thief had been utilized by Angelo workers to minority workers frequently. That management and supervision would use terms or make comments such as we won't hear the word discrimination here, and many Anglos concurred with the minorities that that was incorrect. That the term ought to be that we won't have discrimination here, but they felt that everything was covered for numerous years and through numerous investigations.

In my first meeting with the Affirmative Action personnel, they had -- I was provided with a report that they had done about incidents at GOG, and I met with the staff to clarify the meaning of the report.

Ron Courter was at the time the manager for GOG. I'm not sure of the levels of administration or management or supervision of these individuals.

By the way, Ron Courter with Suzanne Sales contracted me. She was in administration. Basically she put me in contact with Courter, who then became my main contact to provide the services.

Ron Courter told me that EEO had provided a report indicating that what was going on that was perceived as discrimination, in fact, that it had not occurred. So to make sure I understood that correctly and Ron's interpretation was correct, I asked for a meeting with Eddie Edison and Tom Moore, two Affirmative Action employees at the time.

They reported to me that, in fact, discrimination had occurred and that because there may have been the filter -- they used the term -- that a filter exists in which perhaps even events that may not be discriminatory but perhaps preferential treatment just by personality, that many events were being perceived as discrimination that were not. However, that they felt, in fact, that discrimination had occurred.

Toward the end of the second month, I felt that I had had very clear support or I thought I was getting very clear support from the people I had worked with, meaning Suzanne Sales and Ron Courter.

Toward the end of the second month I was investigating, I believe that this position put me in the role of teacher, therapist, investigator, group facilitator. We had had several meetings, Suzanne Sales, Ron Courter and I, about the need to investigate a couple of events at least.

In the minority groups meetings, they said that things were not investigated or not investigated sufficiently or just covered up. So I suggested that at least

one or two events would be investigated fully by administration.

A second request by Suzanne Sales to Ron to investigate it had not gotten any action from Ron yet.

So at a third meeting we decided I would do some investigating. What I ran into at that time was specifically the cover up. Things were being said, a lot of triangulation, somebody said that somebody said that you said. And this was the modus operandi at this point at that facility.

When I was investigating a report about a problem between a secretary and one of the workers, I investigated it with Roy Sukanik, and I went back to the individual. Roy had informed me that he had spoken to this individual about his problem behavior.

In fact, when I asked about that, he pointed to many files -- a stack of files and said somewhere in there is documentation of my having counseled with him.

So I went back to the individual, the worker, who said the man never approached him, and if he did approach him about that problem, to request his signature.

So then I went back to Ron Courter, who was the administrator and the manager to tell him that he needed to step in and request documentation of that prior intervention.

We're dealing with the issue of progressive discipline. That the complaints about the minorities came, but I saw no documentation that there had been progressive discipline. I asked Ron to ask Roy to provide documentation of that progressive discipline. When Ron went to Roy, Roy responded to Ron that I had never addressed the issue with him.

So when I said to Ron, who was actually the person who had contracted me, "What do you think this means?" and he responded, "One of you is lying."

And I said to him, "Do you believe that it could be me?" And he said, "I don't know."

So I realized at that point that my ability to make any impact in a positive way there was just about over, and I decided to write my report, which it's probably not as good as I would like it to have been. It's seventeen pages. I made recommendations.

I met with Suzanne Sales, who did not want to let it go. "We must continue with this," and she put me in charge of a new person who had taken Ron Courter's place. Because of a person having been moved around and et cetera, the meetings fell by the wayside, and we could not continue. And here I am three years later.

CHAIRMAN PENA: Mr. Osborn?

MR. OSBORN: Thank you, Mr. Chairman.

Dr. Perez, the initial diversity training program group that you dealt with, how were they selected? Do you happen to know?

DR. PEREZ: Basically it seemed to be a division or a unit which included all co-workers under a couple of supervisors, a manager and et cetera.

MR. OSBORN: And they were what?

DR. PEREZ: About twenty of them who participated so everyone was mandated to participate.

MR. OSBORN: I see. And you were working directly with someone named Ron?

DR. PEREZ: Ron Courter.

MR. OSBORN: What was his position?

DR. PEREZ: I believe he was manager for that GOG, General Operations Group.

MR. OSBORN: Thank you.

MR. ZAZUETA: I have a question, Mr. Chairman.

CHAIRMAN PENA: Go ahead.

MR. ZAZUETA: Dr. Perez, you made a report -- you stated you made a report. What specific recommendations did you have and what has been done with those recommendations as far as the Department was concerned?

DR. PEREZ: Because I was basically out of the program or the procedures with my report -- I believe maybe one more meeting trying to set up the continuation of the program. I do not know what has happened.

So basically I was -- I basically was called to ask if I would come and support the information in my report.

I do not know what has occurred in the past three years since I was last there at ADOT, but I did make recommendations, which were:

To establish a mechanism by which all allegations of discrimination and preferential treatment be expeditiously and thoroughly investigated. A panel which includes minority crew members may hear a complaint and make

recommendations;

Two, consider that a new position may be developed which identifies a representative, or ombudsman for this new mechanism that is positively perceived as neutral and fair;

Three, provide intensive, ongoing training and extremely close and immediate supervision of the interactions and interventions carried out by Richard, Roy, Andy and Ron or others in those positions that are relevant to the areas of culture diversity and/or preferential treatment of employees;

Four, consider hiring individuals who are already trained and highly skilled in the management of these issues;

Five, promote the acceptance of cultural diversity in the workplace by providing continuing intervention in the form of training and mediation at all levels of the organizational structure.

Six, ongoing rap sessions, in quotations, for the purpose of exploring issues and increasing group cohesiveness and teach stress and anger management skills to this group;

And seven, monitor the potential for violence.

Those, were my recommendations.

CHAIRMAN PENA: Ms. Julien?

MS. JULIEN: Mr. Chairman, Dr. Perez, you said that the original plan was to have the full group to be involved. And by "full group," you mean all of ADOT employees?

DR. PEREZ: No.

MS. JULIEN: Who are you talking about?

DR. PEREZ: The group at GOG, which meant the workers and two or three supervisors and the management.

MS. JULIEN: All right. And then you said that it became apparent that there was a lot of anger and some feelings that a new program would be a waste of time. After the first meeting a different program was planned. Who attended that first meeting?

DR. PEREZ: All of them did, all twenty or twenty-four of them, workers and their supervisors.

MS. JULIEN: And so was the different program agreed upon by consensus

in that meeting?

DR. PEREZ: I believe it was at the first meeting or perhaps at the next meeting in which we began to develop the questionnaire. They needed -- the workers wanted to explore how they all felt, if there was a consensus about work ethic issues was sufficient or not, administrative intervention with these problems with preferential treatment and discrimination.

Basically Suzanne Sales allowed me the opportunity to devise a program that was tailored to the needs of this group, and so we went from what was expected to be a canned program, such as you might get twelve hours of training to whatever was necessary.

And that is why we broke the groups down, is to try to reassure the groups in smaller groups and that handled the anger of twenty employees. It was easier to handle the anger in smaller groups.

MS. JULIEN: Did that end up being more than 12 hours?

DR. PEREZ: Yes. I believe we did approximately 30 hours of group intervention and perhaps more, but it was a total of 68 in consultation with Suzanne Sales and administration supervision.

Probably at least 30 to 36 in direct group work with the workers, the employees.

CHAIRMAN PENA: Mr. Echeveste?

MR. ECHEVESTE: The question has been answered.

MR. GARCIA: Mr. Chairman, Dr. Perez, this report that you put together, who received copies of that?

DR. PEREZ: I believe I submitted it to Suzanne Sales and the office of Affirmative Action.

MR. GARCIA: So specifically Suzanne Sales?

DR. PEREZ: Right.

MR. GARCIA: Do you know if she is still with the Department?

DR. PEREZ: I don't know.

MR. GARCIA: Going back to the hours, you mentioned there was a total of 68 hours. You just mentioned that 36 of that approximately was in actual training?

DR. PEREZ: Uh-huh.

MR. GARCIA: And that, I assume, was with a mixed group of supervisors, managers and also hourly employees?

DR. PEREZ: Yes. Towards the end of those hours, we went from groups of five or six to groups of ten or twelve. So we began to collapse the groups. And we were bringing the group back to a total group in attendance.

MR. GARCIA: In your opinion is that sufficient time to really get any substantial value out of that training? I don't know if that was cut short.

DR. PEREZ: Extremely short. It was probably not even the completion of the beginning.

MR. GARCIA: Thank you.

CHAIRMAN PENA: Doctor?

MS. WEBB-VIGNERY: Thank you, Mr. Chairman.

Dr. Perez, what do you think are the next steps that the Department of Transportation should take in light of your recommendations in your report?

DR. PEREZ: My thought at the end of the program, which occurred to allow the restructuring where the groups were being -- the groups by the way -- the group was all there in one location. Towards the end half they were being sent to another facility or another building.

The workers basically set what their needs were to begin to heal or to begin to trust that they were not going to be discriminated against or treated unfairly.

And it was to fully investigate one or two events, not the thirty that they had reported, but one or two so that they could feel that a fair and sufficient investigation had occurred.

That is the time that Suzanne Sales had allowed me to begin to do some investigation myself. And that is the time that Ron Courter told me that Roy Sukanik had reported that I had never investigated it with him. So basically it was a total breakdown at that point.

I believe that recommendation may still be appropriate. That events that are alleged are fully explored and where they find a discrimination exists, that appropriate action be taken.

MS. WEBB-VIGNERY: Thank you, Dr. Perez. Mr. Chairman?

CHAIRMAN PENA: Any other questions? If not, thank you.

Would you stay in case we have other questions later?

DR. PEREZ: Today I'm covering the clinics because the clinician is gone, and I need to get back to the office, but I'll be glad to come back if necessary.

CHAIRMAN PENA: Thank you for being here. We'll hear from Hope Hernandez who is from AFSCME.

MS. HERNANDEZ: My name is Hope Hernandez, and I'm with the AFSCME, American Federation of State County & Municipal Employees.

The function -- the reason I'm asked here is I have gone through the trials and tribulations of the majority of the people in this room. And I am the representative for the ADOT employees among the DES, DHS, DOA, you name it. Majority of the employees.

I was asked specifically to find out. In 1996 I had 48 intakes. Every time a member calls in or has problems or something, they have to have an intake with their name, address, social security number, so on and so forth.

I have 48 intakes for ADOT employees. Out of these there were 37 Hispanics, four blacks and the balance were Angelo. Some of these I would get relief, be it by talking to the supervisor or giving them advice.

The majority would not file grievances due to fear of retaliation or retribution. The ones that did file, we did not reveal due to the managements is always right, even if they're not.

So far I have intakes of six ADOT members, two have spoke to management. Two I did not have knowledge of lack of knowledge on their behalf.

I was hearing Dr. Perez. I was part of that twenty employee thing that happened several years back where I was almost assaulted by one of the first -- we had a meeting of all the Hispanics, and I was part of it.

So then Ron Courter called me and says, "You had a meeting with all the Hispanics. Now we want a meeting with all of my men, the Anglos." I said okay. So I went.

They attacked me and called me Mexican, stupid, dumb, everything they could think of at that meeting. Finally, I got angry and I cussed them out, and I walked out. And a man followed me. He was going to hit me, one of the workers. He didn't get to hit me. I wish he had of.

Anyway, I was part of that. And I've seen there is a lot of discrimination in ADOT. I see it personally. I have the people come to me. They cry. I have grown men with tears coming down their eyes -- their face. They're afraid.

They need their jobs. Even if they see me at a workplace and I drive up to the workplace or go to the workplace, they don't want to be seen talking to me because they're scared to death.

They will call me. They want me to meet them at the restaurant or they call me at work from a pay phone or something because they're afraid. And I mean mostly I sent a letter, one to Jerry Moreland, who is the personnel manager, director of ADOT. It hasn't been too long, and I told him I had some -- I don't know what it was. I guess I was venting or something. I told him out of all the agencies for the State that I represent, ADOT was the most biased and prejudiced that I had to deal with.

I don't have a copy of that letter. I don't know what I did with it. I'm not very organized with my paperwork. But I did send him a letter like that.

But I guess basically their interest in asking me to be here is to tell them what I have to put up with and endure with the members.

They do go through the grievance procedures. They make a point. They don't prevail in grievances.

I see where Hispanics have tried to get promotions. They don't get them. They come to me and we fight and fight, and we still don't get the promotions.

And they -- some of them -- I have some that are born in Mexico, and they come out here, and they don't know our language very well and don't know how to fight for the rights.

So they tell me things and they believe them, and they don't know any better. They come to me, and then I straighten them out. I call the supervisors. That's how we can get things done.

They're afraid to grieve because they know that there will be retaliation and retribution. 99 percent of the time there is.

And I have to disagree with somebody that said something -- I think that Mr. Puente said that discrimination -- that he felt more discrimination now about Mr. Bonine. I felt it more when Mr. Creedon.

Mr. Puente doesn't have to deal all the ADOT employees which I do. It was worse when Mr. Creedon was on. Not with Mr. Bonine.

I have heard a lot of stories. I know a lot of things that are going on. Mr. Bonine, in a sense, he cuts it off. There isn't any because he doesn't want to hear about it, but with Mr. Creedon I did have more problems. Very blatant with Mr. Creedon.

That's his experience, but my experience in dealing with all the ADOT

members, I have found Mr. Puente does not deal with all of them like I do.

So I know that there is more discrimination. There was more discrimination with Mr. Creedon. What I can't understand is why do they have an Angelo representing Affirmative Action. They don't understand our problems, our cultures be it Hispanic, black or whatever. They don't understand. I never have understood it. Are there any questions?

MR. ZAZUETA: You made a statement that the Department of Transportation was the most biased and prejudice of all the State agencies you cover?

MS. HERNANDEZ: Yes.

MR. ZAZUETA: Do you have facts to back that up?

MS. HERNANDEZ: We have grievances, and we have folders and that we keep, yes.

MR. ZAZUETA: You do have the facts?

MS. HERNANDEZ: Yes.

MR. ZAZUETA: Thank you.

CHAIRMAN PENA: Mr. Echeveste?

MR. ECHEVESTE: Mr. Chairman, Mrs. Hernandez, you stated that you met with the -- one time with the Hispanic employees and then they asked you to meet with the Angelo employees.

Everything that you described, was it as a representative of the AFSCME? I wasn't sure whether you were an employee of the Department at one time.

MS. HERNANDEZ: No. I was the representative of AFSCME.

MS. WILLRICH: Mr. Chairman, I would like to excuse myself from the Commission at this time. As I told you are earlier, I have to return to court for an afternoon calendar.

I want to express my regrets to you and the rest of the panel that I will not be able to stay for the rest of the forum.

CHAIRMAN PENA: Thank you for being here.

(MS. WILLRICH left the hearing room.)

MR. OSBORN: Just one question, Ms. Hernandez. In your opinion has

there been any appreciable change in the attitude of management at ADOT in recent months or in the past year?

MS. HERNANDEZ: I would say there is some changes, yes, and I would say they were for the better, but we're still -- they are for the better. I would say there are some changes in ADOT, yes.

MR. OSBORN: Thank you.

MS. HERNANDEZ: It hasn't been fixed completely, but there have been changes that I can notice with my membership and my people.

MR. OSBORN: Thank you.

MS. QUIJADA-OLIVAS: Mrs. Hernandez, the changes that you recognize that have occurred, are they things that can be identified, or is it window dressing, or can you identify some areas?

MS. HERNANDEZ: They have removed some of the district engineers that blatantly made the point that they do not like Hispanics. They have transferred them or gone out or whatever so the management is better for the workers.

Mostly I deal with construction. I don't have too many people that are engineers or whatever. Just the construction or the landscape or the grounds or whatever out there.

And they have a chain of command, but their district engineers or whatever they call them, they're the ones that start bringing them. They don't like how you treat them.

They have removed some. They have gone to other things, better things so they put some others that are more empathetic to the needs of the people or the men.

I can discuss with them things -- they don't even go to personnel or they don't have to. If they're in trouble, they call me and let me know that there are these things happening. How can we help them? Which is administration, management or supervisor out in the construction sites. So I can help them.

We get those things straightened out, whereas I was not given that privilege when we had Mr. Creedon, Dan Powell and several others.

MR. ZAZUETA: I have a follow-up question. This statement that you made about the Director, top management not wanting to hear complaints, does this encourage or discourage complaints?

MS. HERNANDEZ: Discourages.

MR. ZAZUETA: Thank you.

CHAIRMAN PENA: Mr. Garcia?

MR. GARCIA: Mr. Chairman, just one question.

Mrs. Hernandez, you mentioned that you had written a letter to Jerry Moreland?

MS. HERNANDEZ: Uh-huh.

MR. GARCIA: What was his capacity; was he --

MS. HERNANDEZ: What was it?

MR. GARCIA: What it last year?

MS. HERNANDEZ: I think he's the personnel director for the Department of Transportation. I'm not sure.

MR. GARCIA: You mentioned that you were kind of venting. Could you disclose the content of that letter and what kind of response were you expecting from him and how did you did feel he could potentially help?

MS. HERNANDEZ: I don't remember. I tried looking for the letter. I couldn't find it, and I might have a copy or might have thrown his copy away. I don't know. And I don't know the contents of it. I really couldn't tell you what it was, why I wrote that letter.

Maybe he remembered about it. You talk to him. And his response was he sent me back a letter, and his response was apologetic, and he said that we had misunderstood each other or there was a misunderstanding. I really could not go back. I really don't -- I can't specifically state what his response was.

CHAIRMAN PENA: Any other questions? Thank you.

We will now take a 15-minute recess. Should be back by twenty after.

(Recess ensued from 1:06 until 1:27.)

CHAIRMAN PENA: The meeting will reconvene, and I want to change the lineup a little bit because Mr. Moreno has an appointment he has to keep. So we're going to ask him to present his statement now if he would.

MR. MORENO: Thank you, Mr. Chairman and Members of the Commission.

I am Michael Moreno. I'm the Director of the Governor's Office of Equal Opportunity. And I'm going to try to be brief, and if you would like to ask some

questions, I would be happy to entertain them.

In my assigned role as the Director of the Governor's Office of Equal Opportunity, I have the responsibility for monitoring and overseeing the human resource management of major State agencies.

Some of those strategies include reviewing each of the agency's missions and progress in accordance with the federal and state EEO laws.

I operate under an executive order issued by the Governor of the State of Arizona. Part of that order -- I won't read it totally -- authorizes my office to provide training for and to give me authority to explore and offer alternative resolution in employment-related grievances and allegations. And this is employment related not just to discrimination with regard to sex, race, religion but all employment related issues.

Over the past three years we have designed, developed and effectively implemented an Alternate Dispute Resolution system -- ADR I will refer to it from now on -- for the State of Arizona, which involves establishing program and policy goals.

The program has recently been approved by personnel and is going to be incorporated into the State of Arizona Policies, Rules and Procedures, and will be an option or alternative to the existing grievance process of the State of Arizona.

We have successfully negotiated and secured a memorandum of understanding between the State and its federal counterpart, the EEOC, to defer cases to my office for resolution through mediation.

We recently met with Mr. Casellas, who was the Commissioner of EEOC appointed by President Clinton. We presented the program to him in Washington D.C. his district in Phoenix, Arizona, was also are provided with the presentation.

We submitted all the information to them for review and approval. Our main goal was to try to see if we could get cases that had been filed by State employees returned to our office for the possibility of mediating them.

The reason we felt that should be done are twofold. One is to preserve the integrity of the State, but also to provide the Arizona employee an opportunity to successfully try to mediate a problem that they are having whether they filed with EEOC or if it's an existing grievance that they have within their State agency.

We did about a year's research. We went off all over the country. We looked at the success of mediation. I know that some of you members of the Commission are very aware of some of the successes. Nationally there is about an 85 percent success rate associated with mediation.

The program is modeled after the Attorney General's mediation program for

the State of Arizona. Because the Attorney General represents the State of Arizona, they mediate consumer complaints.

They cannot mediate or defend employees of the State of Arizona because they represent the State agencies, so it's a conflict of interest. So they have to contract outside or they have to go through other means or the State has to hire mediators or individuals to come in and try to help resolve some of these issues that they're being charged with.

To date we have mediated over 50 cases with about a 75 percent success rate. Presently we have about 54 cases pending. Most of these cases are cases that have been referred to us by EEOC, the Phoenix District Office in hopes of resolving the issues. EEOC has agreed if the parties come to a resolution, to terminate the charges.

We're very excited about the fact that they've entrusted us with providing mediation to State employees. And I want to talk a little bit about the credibility of my office.

I am appointed by the Governor of the State of Arizona, but that doesn't mean that I'm influenced. I mean, you have rules. You have ethics. You cannot come into my office and tell me you don't want me to investigate this charge or this case ethically, morally or legally. You just can't do it. It has never been done.

I've worked for two United States Senators, and I've worked two EEOC cases in those offices. They never came up to me. I know it's very political because it has the name Governor's Office.

I want to assure you also what I have done, I've hired -- I have in my employment the former district director of the Phoenix office of EEOC, over twenty years of experience that I consider to be an expert in the field of Title Seven investigations and mediations. There is no other better person.

I think some of you know Edward Valenzuela. He is the expert. I trust him. He is very ethical. He would not allow that office to be compromised or influenced in any way, shape or form.

I have Phil Austin who was the former director of the Arizona Civil Rights Division of the Attorney General's Office. He is providing the training for the pool of mediators who will be mediating the cases before us together with the State employees who agree to go through mediation.

He is on contract with my agency, and he will remain there because he provides technical, legal, all the assistance that I need to ensure that this program is successful. It's very important to us. That we provide.

I know that in the past once again, the inferences in terms of the conflict of interest I have gone over and spoken to you, Mr. Chairman, when you were

Senator regarding the mediation program. My funds that are appropriated for my agency -- I do not receive funding from the Governor's Office. I have to go to the State Legislator to receive my funding. I have to show them what I am doing is legitimate, and they can approve it, and we can continue on with the work that we want to do.

I feel that it was very important today to come here and to let you know this, because as some of the statements have been made in the past in terms of the confidence in my office. We have worked very hard with the people that we have employed with us with the things that we are doing with the agreements that we have with the Federal Government.

It's unprecedented in the State of Arizona. This is the first time in the history of the State that we have had this type of an agreement.

And it also reduces the time that individuals have to wait for EEOC to give them a right to sue or even to look into the matter. This shortcuts that and provides a very effective successful win/win situation for both parties.

And if I'm in a situation that is kind of difficult, it's because I do have to preserve the integrity of the State, but I also have an obligation to the employee of the State of Arizona to make sure that they have -- that their rights are being protected, and that they have an avenue to pursue, to get some resolution or get some satisfaction to complaints that they have.

I have attempted on numerous occasions, and it's very amicable from the standpoint that the individuals -- some of whom are here today -- I have spoken with them and I have asked them if they would not like to participate in mediation. I have left that door open. We still want to.

The State of Arizona, the Department of Transportation I spoke with them. They also have indicated a willingness to pursue mediation.

So in the end I would just like to state that if there is any possibility in your recommendations or conclusion that you draw that you look at our program as maybe an objection to pursue to try to resolve some issues that are being brought to you today. With that I would like to thank you for your time.

CHAIRMAN PENA: Richard?

MR. ZAZUETA: Mr. Chairman. I would like to go back to a question I asked Ms. Canales.

On your program alternative dispute resolution system that you mentioned, Mr. Moreno, she mentioned -- Ms. Canales mentioned from her view point that there was a conflict of interest in resolving her problem, their problem. I guess that was her perception.

MR. MORENO: Mr. Chairman, Mr. Zazueta, I believe I spoke with her. I believe I tried to explain the process. In that process we have built-in components. If there is a conflict, if there is any kind of a conflict, we have in the component something that says we can take a recess. We can take a break. You can step out of mediation. You can consult with whomever you like to consult with before you make a decision, before you make a statement, before you have any question about the process.

I don't know the particular instance, Mr. Zazueta, but I know the process allows for individuals to take a time out, so to speak, to go and consult and then come back so that they feel comfortable about either continuing or not continuing.

The process isn't 100 percent. It will not resolve 100 percent of any of the issues or all of the issues that are brought here. It may not be appropriate.

One instance may be a crime. Somebody commits a crime. We can't mediate a crime. We can't mediate a blatant act of sexual discrimination or sexual harassment. I can't specifically recall what the conflict was, but we didn't have an opportunity to address it.

MR. ZAZUETA: Thank you.

CHAIRMAN PENA: Ms. Kraus.

MS. KRAUS: Mr. Moreno, although the people that have testified here today have not availed themselves of the services of your offices, have other ADOT employees?

MR. MORENO: Yes, they have, Mr. Chairman, Ms. Kraus. We have pending right around 65 cases from all State agencies, boards and commissions. My area covers all of those. There is over 100 agencies boards and commissions.

MS. KRAUS: And that includes ADOT employees?

MR. MORENO: Yes, that includes ADOT employees.

CHAIRMAN PENA: Mr. Echeveste?

MR. ECHEVESTE: Mr. Chairman, Mr. Moreno, help me understand the breadth of the authority of your office. I understand and you're to be commended for putting together a very clear and well-defined what you call program to facilitate the process of trying the mediation process. Thank you.

That's what I was trying to say. But how do you address -- what authority do you have to address the appearance or what might appear to be institutional racism? Give me an example of how you can address that, how you are addressing that?

MR. MORENO: Mr. Chairman, Mr. Echeveste, I previously spoke to the alternative dispute resolution of my executive order. The order also allows me to look into any situation, whatever the subject matter is, if it is a problem in terms of employee versus employer.

One of the reasons why my office was set up is to provide the employee an opportunity if they feared any retaliation, if there was any fear of termination, and I have expressed this to anyone who calls the office that they can file their grievance with the agency and that at the same time file that grievance with my office.

What I then do is contact that agency and let them know that that individual has filed with my office. And basically it's an unwritten notice to that agency that they should not and will not conduct any activity or make any statements to that employee to give that employee the feeling that there is going to be some kind of negative conclusion.

With regard to institutional racism, it hasn't been brought on our attention in terms of a request, but like any other issue, if it does, we have people on staff who do management assessment, who do agency assessments, who can go in and conduct those assessments, not investigations, but come back with the recommendation to me, and I can make that recommendation to the Agency Director.

MR. ECHEVESTES: All right.

Mr. Chairman, Mr. Moreno, let's take an example that say you found something that clearly was inappropriate, some discrimination, some harassment, a pattern of that.

What authority, if any, do you have?

You mentioned you can point out, you can recommend to the Director of the Department. What if the Director of the Department refuses to respond in an affirmative way to correct the problem? What can you do at your office?

MR. MORENO: What I can do and what I have done in the past with other agencies, I have gone to the Deputy Chief of Staff for Operations who is over all Agency Directors.

I also make recommendations to that Deputy Chief regarding any assessments, any investigations that my office has conducted. And have basically said that this is why this decision has to be made, because, and based upon the because.

When I have said or made a recommendation, the Deputy Chief calls the Agency Director in, and at that point if the Deputy Chief feels that my recommendation needs to stand, then my recommendation stands.

MR. ECHEVESTE: So then your office then has -- really it's a facilitator, mediator, but you have no legal -- you have no legal authority that you can exert and assert if, in fact, as you say, the Deputy Director of the Governor's Office or the Governor chooses to ignore; that matter ends there?

MR. MORENO: Mr. Chairman, Mr. Echeveste, the executive order is the Constitutional authority. It's given by the State Legislature. There are rules and regulations that must be abided by.

It gives me the authority to make those recommendations and there is a responsibility to respond to those recommendations, because some of those recommendations may be to prevent them from committing something illegal or to correct something that is very wrong, and I have that authority to make that recommendation, and there is an obligation Constitutionally to do so something about that recommendation.

MR. ECHEVESTE: One more question, Mr. Chairman.

Mr. Moreno, do you track -- do you track various types of key indicators to try and pinpoint potential institutional racism? Let me be more specific. For example, do you track to see how administrators in the various departments and even by the administrators hiring employees from the personnel registers that are sent to them? Do you track to see if, in fact, those registers do reflect the diverse society that we have?

Do you have those kind of tracking management tools in place to track those kind of things as well as the number of complaints from a specific supervisor?

MR. MORENO: Mr. Chairman, I'm going to defer to Mr. Valenzuela. His responsibility is that.

MR. VALENZUELA: Mr. Chairman, Mr. Echeveste, the area you're talking about tracking or monitoring the progress lies with the Governor's Office of Equal Opportunity in that it is the one office, the one agency in the entire State that is responsible to coordinating all Affirmative Action plans by all agencies, commissions and boards.

Each commission, board and agency and department is required to submit an annual Affirmative Action plan indicating the status or the progress of the Affirmative Action plans.

If there is underutilization of protected class individuals and if there is no progress made in the year, they have to give a reason for that, and that's reported to the Governor's Office.

The Governor's Office then has to make reports to the Federal Government in the form of an EEO-4 report. It has its own authority to make those

corrections.

MR. ECHEVESTE: Mr. Valenzuela, Mr. Moreno, Mr. Chairman, do you pay particular attention to, say, let's say, the hiring process, the people doing the selection in all of the departments of employees? Do you monitor that?

I guess for example, let me just give an example. I'm asked earlier how is it -- I asked what is the composition of a key component in a department that we've heard lots of testimony about today. That has not one Latino in that component which is responsible for administering, as you do in your agency, the whole Department of Transportation when the population of Arizona what, is 25, 30 percent minority.

This is an office to oversee that activity in a Department. Do you oversee these components? Do you have any authority to input into these kind of situations?

MR. MORENO: Mr. Chairman, Mr. Echeveste, until recently we had no direct responsibility or direction to be involved in the hiring process. About a month ago at our last meeting that I had with our chief of staff, one of the -- that specific issue came up.

My office will in the very near future play a more active role in ensuring kind of a diverse representation or hiring people based upon their ability to produce and not hiring people because they're a friend of somebody and all of the issues that were used to give examples of how minorities weren't given opportunities.

I feel very comfortable from the standpoint that we are going to be taking a more active role in the hiring process in the very near future.

To date the personnel department of each agency if it was a large agency, they have that responsibility to ensure diversity in the employment work force.

MR. VALENZUELA: In the chart, if I may add to that. In chart you have, we are responsible for looking at the entire profile of all the agencies together.

This will reflect a fairly good representation of the protected groups in that it's probably only 2 percent below the recommended goals set by the Department of Labor, and their goals that they've based on civilian labor force.

With regards to the specific ones, I'll respond, again, by saying that the annual Affirmative Action plans that are submitted by every individual department shows underutilization of a group. That's how we know.

It's up to the Governor's Office to approve or disapprove that plan. If there is a feeling that that plan is not an aggressive effort -- an aggressive effort has not been made to correct that situation, at that time that would be brought out.

As you see, the overall aggregate looks good, and it's up to date to look at individual agencies. Some agencies may be doing better than others. We have to look at the ones that are deficient and put some emphasis in that area.

MR. ECHEVESTE: One final question. I'm sorry. This is an area of particular interest to me.

Can you as the Affirmative Action Office guarantee that individuals that testified in hearings such as these, can you guarantee they will not be subjected to any retribution, any harassment, any termination and/or being even kept at the same salary, same classification but being put to, let's say, a Grade 21, 23, to clean windows or to sharpen pencils at the same pay rate? Can you guarantee that those kind of things do not occur?

MR. MORENO: I can guarantee that no retaliation will be taken against any of the employees today, none whatsoever. I can guarantee that. I'm precluded by personnel rules to engage in any kind of a conversation regarding salary, regarding positioning, regarding restructuring. I'm precluded by statute from doing that.

MR. ECHEVESTE: But you're guaranteeing if there are employees that have testified that, in fact, have been kept at their classification, have retained their title, but are sharpening pencils or pushing papers, way below their pay level, that you can correct those problems?

MR. MORENO: Mr. Chairman, Mr. Echeveste, I can make sure that the law is complied with. Once again, I don't want to get into job duties, job responsibilities and how people change. I just cannot engage in that kind of a situation where I'm there day to day. It's impossible for me to be there.

MR. ECHEVESTE: Thank you, Mr. Chairman, Mr. Moreno.

CHAIRMAN PENA: Let me follow up with more of the questions.

You might have responded to it, but I didn't catch it. Mr. Echeveste asked about the Affirmative Action Office, the makeup the components, and what you could do to make kind of a change, noting that all of these are appointments by the Governor. And apparently once the Governor makes an Affirmative Action Administrator appointment, that person appoints the rest of them.

How do you fit in?

MR. MORENO: Mr. Chairman, I'm very proud of the fact that I've had the opportunity and the flexibility to hire unique individuals. I'm Pasquayaqui. I have a Navajo. I have Mr. Valenzuela who I gave you his experience. I have an Angelo in my office.

And it's very important to me that my office not be perceived as a token

office and that you and I feel that my employees represent the total community as well as the work force, have a very good representation.

I have individuals in my office who are from a different party. I'm only concerned with hiring people who can do the best job possible who can provide the best situation for the best interests of everybody.

CHAIRMAN PENA: You're commended for that, but you didn't respond to my question.

What do you do about the Affirmative Action Office of the Department of Transportation, the makeup that Adolfo talked about, the components?

MR. MORENO: Mr. Chairman, the makeup I can't address that. I can't tell you that I'm going to go over there and hire, you know -- I don't believe in even dealing with having at least two Mexicans, two blacks, two whites. I think that's awful.

I think even the Affirmative Action plan itself, the Federal Government did not say, it did not say that you had to hire two of everything. It says you have to make an attempt to diversify your employment, to diversify. It did not say to hire.

And I can't go over there and tell them to put one of each in any position. I think that they need to be sensitive to that. I'm sure that they're being made aware of it today, and I think they will keep that in mind.

CHAIRMAN PENA: You're in the Governor's Office. He's the one that makes these appointments, and you can't go to the Governor and tell him the ADOT Affirmative Action Office is not representative of the cultural diversity of the State and to make some changes?

MR. MORENO: Mr. Chairman, I can make a recommendation regarding employment to positions that we have more -- to make recommendations over.

The Department of Transportation has a statutory authority to set up their organization and a process to hire. I can't go in there and tell them who to hire.

I think an example that we use is the Motorola example. When we see an area, when there is a vacancy, and we see an area that maybe they don't have a minority in that area, we can make a recommendation to the Department of Transportation that they consider hiring either a female or a Hispanic or Afro American, we can make that recommendation.

I think that's better than going to the Governor and trying to recommend to the Governor that he go tell them. I just think that can be dealt with at that level.

MS. JULIEN: Mr. Chairman, Mr. Moreno, you said that what you do is make sure that an attempt is made.

If in a department it appears that repeatedly that attempt, whatever the attempt is designed as, is not being made to diversify the Affirmative Action department or other appropriate department, what steps do you take or can you take if under your definition the attempt is clearly not being made?

MR. MORENO: Mr. Chairman, Ms. Julien, most of the time I haven't had that experience to date. If there is a blatant -- if it's obvious, if I'm talking to them and I'm reviewing their Affirmative Action report and I make some suggestions, I make it because I see a pattern. And I make that recommendation.

If they don't take that recommendation, then we end up in situations like this. That's the reason why I went to EEOC, to see if we couldn't bring those things up and see if we couldn't solve those at an earlier stage and work with them.

And I am also trying to insert my agency as a very positive force within State government. And I will tell you that in the past that office has been seen as a dumping ground for those on the way out and the watering hole for those on the way up. It has been seen as a "them" office.

I don't think anybody is excluded from experiencing some kind of form of not feeling any worth.

MR. ZAZUETA: Mr. Chairman, could I follow up on that question of Mr. Echeveste and yourself?

CHAIRMAN PENA: Sure.

MR. ZAZUETA: Could you recommend to the Governor, Mr. Moreno, when he has his cabinet meetings to recommend to the Department of Transportation to resolve some of these office problems of Affirmative Action or whatever or some of these complaints? Could you recommend that to the Governor?

MR. MORENO: Mr. Chairman, Mr. Zazueta, I can and I will.

CHAIRMAN PENA: Dr. Vignery?

MS. WEBB-VIGNERY: Thank you, Mr. Chairman, and Mr. Moreno. I would like to ask you a couple of questions about your legal mandate.

Under your legal mandate, do you require that each department head, including the head of the Department of Transportation, have the Affirmative Action officer report directly to him or her?

MR. MORENO: Excuse me, Mr. Chairman, Dr. Vignery. Report to whom?

MS. WEBB-VIGNERY: Report to the Department head of each department?

MR. MORENO: Mr. Chairman, Dr. Vignery, I think they do in some instances. I'm pretty sure that the Department of Transportation has meetings, and they do meet about the Director.

MS. WEBB-VIGNERY: Do these report directly to the Director?

MR. MORENO: I don't know the organizational flow.

MS. WEBB-VIGNERY: And under your legal mandate, do you have subpoena powers?

MR. MORENO: Mr. Chairman, Dr. Vignery, we do not have subpoena powers.

MS. WEBB-VIGNERY: Versus the Civil Rights Division of the Attorney General's Office which represents the administrative functions which does have subpoena powers.

MR. VALENZUELA: Mr. Chairman, Dr. Vignery, the power or the authority that the Governor's Office of Equal Opportunity has is that which is delegated from the Governor himself based on Constitutional powers, executive powers that the Governor has. The Governor may delegate so many powers, which he has done in this case.

When you refer to the Office of Civil Rights, that is enforcing a statutory law, Arizona Revised Statutes, which provides prohibition of discrimination based on race, religion, class, sex, national origin. That's statutory law which is legislative.

As opposed to the executive branch, the Governor's Office. The Governor may delegate down to this office -- and it depends on the Governor.

The authority that is exercised by the office is that investigation, preparation and exploration of methods to resolve disputes, employee disputes and employment related disputes with regard to correcting the situation. That authority hasn't been delegated directly to the office. It still lies with the Governor.

The Governor has the sole authority over all Agency Directors, all members and all branches of the executive branch of the State government.

Therefore any recommendations that are going to be made has to go back up to the Governor, who make the sole decision of the corrective action.

Recommendations are made on a regular basis from this office to the Governor's cabinet or the Governor himself to make corrections.

MS. WEBB-VIGNERY: Thank you.

MR. OSBORN: Mr. Chairman, Mr. Moreno, did I understand you to say that your office of alternative dispute resolution has 65 cases pending?

MR. MORENO: Mr. Chairman, Mr. Osborn, I believe I said 54 cases.

MR. OSBORN: 54. Thank you. And of that 54, do you happen to know how many are in the Arizona Department of Transportation?

MR. MORENO: I believe the number is 27.

MR. OSBORN: 27?

MR. MORENO: Not of the 54, but of the total 300 that are pending at EEOC currently.

MR. OSBORN: 300 pending?

MR. MORENO: This is out of 100 agencies boards and commissions, 40,000 employees. We have approximately --

MR. OSBORN: I'm having trouble distinguishing between the 300 and the 54.

MR. VALENZUELA: May I correct that? May I clarify that? I have the figures. I just worked on them today.

Overall there are about 300 cases, State Agency charges pending at EEOC. Of those State Agency charges pending at EEOC, approximately 27 or 28 are against the State Department of Transportation.

Out of that number of 27 or 28, letters have gone out from the EEOC to those charging parties, inviting them to contact us to mediate.

Of that number, at least seven individuals have contacted our office and are willing to mediate. And these six or seven charges have been forwarded to the Department of Transportation, asking the Department if they're willing to sit down and mediate those cases.

MR. OSBORN: And have you had a response from ADOT on any of them?

MR. VALENZUELA: They are just recently contacted.

MR. OSBORN: Fairly recently?

MR. VALENZUELA: Within the past week.

MR. OSBORN: Within a week?

MR. VALENZUELA: Yes.

MR. OSBORN: Uh-huh. Let me give you a hypothetical case if I may, Mr. Moreno.

Suppose that an ADOT employee came to you and said, "My job site has been littered with Ku Klux Klan literature. Someone hung a noose on my work station, and there is a burning cross," and so on. And you were able for determine who was responsible.

What options do you have for dealing with that rather extreme situation?

MR. MORENO: Mr. Chairman, Mr. Osborn, when an employee comes to my office and says that, I have a responsibility to immediately respond. The first thing I do is I contact the Agency.

And then I work together with the Agency, depending upon the severity. If it's blatant -- it's crime, sexual harassment, cross burning, I think that the Agency -- I assure you they need to take immediate action to investigate, to look into it to go and make sure that that employee is safe, that the environment is safe and that there is no illegal activity taking place because of that report that was made to me.

MR. OSBORN: Then if the guilty party was identified beyond any reasonable doubt, any action that might be taken goes back then to ADOT; it's not your office's prerogative?

MR. MORENO: Mr. Chairman, Mr. Osborn, correct, the Agency must take care of that.

MR. OSBORN: Thank you.

CHAIRMAN PENA: Any other questions? If not --

MR. GARCIA: I have one question.

Mr. Chairman, Mr. Moreno, this program the ADR program is relatively new as far as being in place. Is there still additional training to be done with this?

MR. MORENO: Mr. Chairman, Mr. Garcia, we are continuously updating our pool of mediators. We have received training from the Arizona Attorney General's Office, as I mentioned earlier.

Mr. Phil Austin is our senior trainer in terms of making sure that we offer not only the 40-hour mediation training for mediation pool, but also we have another component that goes into the agencies and trains managers and supervisors regarding mediation.

The experience, the research that we've done shows that if you have

managers as supervisors who are trained and aware about mediation, there is a percentage, right around 25 or 30 percent of those that would have gone to a grievance process can be taken care of at that point.

Some of these just take an apology. Some of these may be just a change in shift schedule that end up becoming mountains that were mole hills to begin with.

The program is relatively new. We run the pilot for a year, and we recently got authorization to run it full scale offering it to all major agencies, all agencies boards and commissions.

MR. GARCIA: So you feel that the resources are available and in place actually on these cases that are relatively new as far as coming into this program to take care of them?

MR. MORENO: Mr. Chairman, Mr. Garcia, yes, I do. Gloria Ybarra, who is the current director for the Arizona Civil Rights Division, has allowed me to take on mediators until we can build up our pool of mediators.

They're State employees who do EEO responsibilities in their agencies, and if an agency, if an employee -- I'll give you a quick example. If an employee doesn't have confidence in a mediator who comes from their agency, they can request a mediator from the pool that may come from another agency that will come in and facilitate the process.

We're trying to build confidence. We're trying to give both parties the assurance they can go in there and come out with a mutual agreement.

MR. GARCIA: But you can't do that unless the parties agree that is the route they want to take? If they elect not to, can you proceed on your own?

MR. MORENO: Mr. Chairman, Mr. Garcia, both parties must agree to mediation. One cannot be forced to attend. Both parties must agree. It's completely voluntary on both parties.

If you understand mediation, it's not arbitration. It's not a right or wrong. It's not courtroom drama. There are no -- nobody is taking notes. Nobody is building a case. The facilitator ensures that that is not the process.

It's trying to come to a mutual agreement regarding an issue, a behavior that had some impact on somebody.

MR. ECHEVESTE: Mr. Chairman, before they leave, I just want to make sure who else will be here representing the State? Is this it?

There are others here from the Department of Transportation. Mary Peters is here?

CHAIRMAN PENA: Yes. Thank you.

MR. ECHEVESTE: Thank you.

CHAIRMAN PENA: Any other questions? If not, thank you for being here.

MR. MORENO: Thank you.

CHAIRMAN PENA: We will now hear from Mary Peters, who is Deputy Director of the Department of Transportation.

We also want Lisa Wormington to come up and sit in the panel. She is the Affirmative Action director of ADOT, and we would like to invite Eddie Edison to sit in on the panel. He is the EEO specialist for the transportation support group, Affirmative Action of ADOT.

What we'll do is we will allow all three to make a statement if you wish. And then we can proceed with questions that we may have of any of the three or all three.

Mary Peters?

MS. PETERS: For the record, my name is Mary Peters, and I am the Deputy Director of the Arizona Department of Transportation. I have served in this capacity since July 1995.

In my position I operate as Chief Operating Officer for the Agency. I report directly to the Agency Director and Chief Executive Officer, Larry Bonine.

I am responsible in this position for all operational and administrative aspects of the Agency to include Intermodal Transportation Division, the Motor Vehicle Division, and all administrative and support functions supporting these activities.

Specific aspects of these duties include setting strategic policy related to transportation for the State of Arizona, including motor vehicle functions, development of the Agency strategic plan and performance measures.

In addition, I chair the Priority Planning Committee, which prioritizes projects as part of the five-year highway construction program.

The Arizona Department of Transportation is responsible for the 6,000-mile state highway system and the \$2.6 billion five-year highway construction program. This program supports the statewide transportation network.

The Agency is further responsible for all vehicle registration and title registration activities as well as driver's license functions in our Motor Vehicle Division.

This includes motor carrier licensing and the tax collection functions that are related to that. Direct responsibilities include management of the Agency's operating budget of approximately \$200 million and direct management of the Transportation Support Group.

Prior to my current position, I served in the Director's Office as the Deputy Director for Administration when he had a separate position and performed those functions, and I also served as the Executive Assistant to the Director when hired by Jim Creedon in 1992.

My employment at the Arizona Department of Transportation originally began in 1985 in the Engineering Consultants Services section of the Highways Division. I served in several positions in that area, including that of Contracts Administrator.

In that capacity I managed the Agency's professional services consultant program, consisting of approximately 750 contracts and agreements valued at approximately one billion dollars annually.

This section is responsible for the selection, management, and administration of consultants providing engineering and architectural services, or in other words, professional services to the Agency.

Duties included the development of proposal and administration procedures to enact enabling legislation for privately financed transportation projects.

Additional responsibilities included providing strategic direction and guidance to a staff of approximately 25 in the development of consultant selection procedures in compliance with the national Brooks Act.

While serving in this position, I developed and administered the program in compliance with the Federal Highway Program Manual, the Code of Federal Regulations, the Federal Acquisition Regulations, and Disadvantaged Business Enterprise Program guidelines.

Additional duties included development and monitoring of consultant program funding within the Agency's five-year highway construction program, establishing partnering concepts in engineering consultant contracts, and developing a consultant outreach program to facilitate better communication and coordination with the consultant community, and this would have included the disadvantaged business consultant community as well.

The Arizona Department of Transportation employs well over 4,000 persons including seasonal and temporary positions, in three divisions and the transportation support group. ADOT headquarters are located here in Phoenix, and we have field offices located in virtually every community throughout Arizona.

As part of the executive branch of government, the Agency operates under

authority granted by Title 28 of the Arizona Revised Statutes.

The Agency operating budget comes primarily from the Highway User Revenue Fund and is appropriated on an annual basis by the Arizona State Legislature.

In operating the Agency, we're responsible for accomplishing the organizational mission, which is directed as Title 28 with direction set by the Agency guiding vision and strategic plan goals and objectives. The Agency values, which were developed by a team of employees with input in the work force as a whole to ensure the rightness of our direction in accomplishing this mission.

Our organization has undergone substantial change in the past ten years as have most organizations. The organizations that each of you are involved with have done so as well.

In fact, you can hardly pick up an edition of The Wall Street Journal or management magazine and not find that an organization has gone through a substantive change in the past few years and ours is no exception. This sometimes caused stress on the work force, and again, our agency is not an anomaly in that respect.

However, the Arizona Department of Transportation does not discriminate in its employment and promotional policies against any group -- Hispanic, African-Americans, Asian-Americans, Native Americans, women, or those with disabilities.

ADOT, in fact, prides itself on supporting equal opportunity for all employees and maintaining a workplace environment that is free from discrimination at all levels.

I believe that our numbers speak for themselves.

As of January 1st of this year, there were 4,172 ADOT full-time employees. Of that number, 1,279 are Hispanic, African-American, Asian-American, or Native American. In fact, over thirty percent of our work force is represented by these minority groups.

These minority employees are also by no means relegated to the bottom rungs of the advancement ladder of our organization. For example, there are 868 Hispanic employees, representing approximately 21 percent of our work force. Of that number 304, or just over 35 percent, are in professional positions or management level positions.

That compares with only 9.9 percent of the private or civilian work force in such positions.

Women have also made significant progress within the Department of

Transportation. In fact, 56.14 percent of the Agency's professional employees are women, which compares with just under half of the civilian work force.

Our record, I believe, demonstrates a zero tolerance attitude toward any form of discriminatory behavior. We have in place training programs, processes and procedures that emphasize our strong commitment to this policy.

Discriminatory behavior is simply not tolerated at any level in our organization. Our record shows that we have aggressively rooted out such behavior and dealt with it quickly and decisively whenever we have been made aware it existed in our organization.

Toward that end, ADOT maintains an Affirmative Action office with a full-time director who has been nationally recognized for her competence and expertise in this area.

I need to clarify some discussion that occurred earlier. This position reports directly to the Agency Director's Office, and this position has full access to the Director and myself as Deputy Director at all times. This is the only exempt position within our Affirmative Action Office and by the word "exempt," I mean exempt from Civil Service hiring practices.

The remaining positions in this office are filled by a competitive process, a competitive process where its applicants make application for open positions within that office.

Lisa Wormington has been our Affirmative Action Director since 1985. She was appointed by the Director and approved by the Governor's Office of Affirmative Action at that time.

We also have in place a number of staff who are well qualified to do their jobs within this area and have substantial experience in the areas of Affirmative Action and Disadvantaged Enterprise program, and Lisa will speak to that as she makes her remarks a little later.

We also have in place a comprehensive Affirmative Action policy that states ADOT's commitment to affording equal opportunity to all current and future employees.

This agency has maintained an aggressive Affirmative Action program consisting of specific policies and practices in recruitment, hiring, training, promotion, and always other aspects of employment and employment benefits.

I'd like to quote to you, if I could, directly from our Affirmative Action policy. Quote, It is the fundamental policy of the Arizona Department of Transportation to provide Equal Employment Opportunity to all persons in all aspects of employment and benefits without regard to race, religion, color, sex, age, national origin, or disability. Employment decisions will be based on the individual's

ability and qualification, end quote.

Our work force is representative of a broad cross-section of society here in Arizona. ADOT recognizes that, as in society as a whole, there will be instances in our agency where people do not treat each other with the dignity and respect that must be afforded to every human being. In a work force as large and diverse as our own, there may be circumstances in which individual employees become victims of either actual or perceived discrimination.

That is precisely why the organization has established a comprehensive complaint procedure for those who feel they may have been victimized.

This procedure affords those who have complaints an opportunity for resolution along several fronts.

Again, Lisa Wormington will speak strictly to those policies. Employees who use this system have their concerns addressed and valid issues resolved under this process.

The Arizona Department of Transportation is proud to stand on our record. We have policies and procedures in place that represent our best effort to provide equal protection and opportunity to each of our employees in the Department of Transportation.

I appreciate the opportunity to make this statement to you, and I would be pleased to answer any questions you may have.

CHAIRMAN PENA: We would like to have a copy of that.

Lisa Wormington do you have a statement?

MS. WORMINGTON: I'm Lisa Wormington. I'm the Affirmative Action Administrator with the Arizona Department of Transportation.

I joined ADOT in 1985 as the Assistant Affirmative Action Administrator. Joe Eddie Lopez was the Administrator at the time.

Coming from the Governor's Office of Affirmative Action, I had experience in Affirmative Action issues. I was fortunate to work with Joe Eddie as he served as my mentor.

In 1986 Joe Eddie resigned to run for elected office, and I was appointed Administrator in July 1986.

The ADOT Affirmative Action Office is responsible for the administration of five different Civil Rights programs. They are: The Internal Affirmative Action Program, the Disadvantaged Business Enterprise Program.

Highway legislation since 1982 has required we expend no less than 10 percent of our federal money with small business concerns that are owned and controlled by socially and economically disadvantaged businesses.

Our external Affirmative Action Program, which is also called the Contract Compliance, requires that contractors working on federal aid projects greater than \$10,000 have an Affirmative Action Program. They are also required to train minorities and women to full journeyman status in skilled crafts.

We have the Title 6 program. Title 6 and related acts require that no person on the grounds of race, color, gender, national origin, age, or disability be excluded from participation in, be denied benefits of, or otherwise be subjected to discrimination under any program or activity of ADOT.

Lastly, we're responsible for the Americans for Disability Act. We're responsible for not only the employment aspect of it, but also that our programs, services, and activities are accessible.

Since 1986, the agency and I have received the following honors: In 1987 we received the DBE Liaison Officer of the Year from the Federal Highway Administration.

In 1990 we received the Outstanding Minority Business Enterprise Award, the Federal Highway Administration, for accomplishments and contributions to the U. S. Department of Transportation in Minority and Women-Owned Business Programs.

In 1992 we won the Glass Ceiling Award in the Federal Highway Administration, for outstanding achievements ensuring equal employment opportunity, which increased the number of women and minorities in senior level management positions in the Agency's work force.

Public Advocate of the Year, from the National Center for American Indian Enterprise Development in 1994.

And in 1996 we were proud to receive the Arizona DBE Certification Partnership Award by the Federal Highway Administration.

Let me talk a little about the Internal Affirmative Action Program. During my tenure in this office, the representation of all protected classes has grown.

Only women are not represented at or above parity figures.

In 1989 Hispanics comprised 17.5 percent of ADOT's work force. As of January 1st they comprised 20.8 percent. African Americans were at 3.2 percent and are now at 3.9. American Indians made up 3.2 percent of the work force and are now 3.7. Asians have exceeded parity since 1989, going from 1.6 percent to 2.2 percent. Women, although below parity, have increased in representation

from 30.9 percent to 39.1 percent.

Classes in preventing sexual harassment and EEO/Affirmative Action are mandatory for all employees in the agency. The cultural diversity class is also mandatory for all supervisors.

A team was created in 1993 to develop a program to increase the representation of minorities and women in pay grades 17 and above. Since that time there has been positive movement in this direction. This is measured by considering the distribution of positions among the pay grades and then considering the same distribution of protected class members.

For example, in 1993, 23.1 percent of ADOT's African American work force was in pay grades 16 through 30. Today 26.5 percent are. For Hispanics, the number has increased from 24.3 percent to 31.3 percent. For American Indians, it's grown from 19.4 percent to 20.7 percent and women have grown from 24.4 percent to 25.8 percent.

To assist in investigating allegations of unlawful discrimination, two individuals with significant experience in this field were hired in 1989.

Eddie Edison currently serves as the Equal Opportunity Specialist IV. He is responsible for the internal Affirmative Action program, the day-to-day operations of the office, and issues relating to the Disadvantaged Business Enterprise program. Mr. Edison has 13 years of experience, including five years with the Alaska Human Rights Commission, a 706 agency.

Tom Moore was also hired in 1989. He is an Equal Opportunity Specialist III and is responsible for coordinating the certification portion of the DBE program. He conducts the EEO/Affirmative Action and sexual harassment training, and he investigates allegations into unlawful discrimination, too.

Mr. Moore came to ADOT from the Arizona Civil Rights Division of the Attorney General's office, where he began his career in civil rights in 1979.

As a certified mediator he has used this skill to resolve conflicts in our workplace, and I would also like to add that Mr. Moore is a Vietnam veteran as well.

ADOT has an EEO Counselor program, patterned after the federal program. This program has always received the greatest support from top management. There are currently 40 counselors from all over the State that participate.

The counselors serve as our first line approach to issues and concerns arising in the field. They receive bimonthly training in Phoenix, and when we have people that are coming from Kayenta and Chambers for training, that does involve expense on the Agency's part.

They receive bimonthly training in topics such as investigation techniques, counseling, insurance changes, age discrimination, et cetera.

ADOT is one of a few state agencies who continue to participate in the Summer Youth Employment program offered by a variety of the community based organizations here in town, such as the Phoenix Urban League and the Phoenix OIC.

We talk a little bit about our Disadvantaged Business Enterprise Program. ADOT's DBE program is respected as a model by other state highway departments and by other local governments within the State of Arizona. I also serve as an instructor for the Federal Highway Administration's DBE Program Administration course.

Some significant accomplishments include: Exceeding our 10 percent commitment every year since 1982, except for last year. This year's participation rate is at 15 percent as of the end of January.

Partnering with local governments to create a single DBE application and on-site review form. This eliminates a great deal of duplication of efforts for those minority and women owned businesses who wish to work with as many different governments as possible.

We participate in workshops throughout the State to explain the certification process to individuals who may need certification to participate in other entities' programs, such as APS, Southwest Gas, and some of the banks.

And lastly, we obtain federal funds to work with the tribal governments to identify Indian owned businesses and assist them in working on ADOT highway construction projects.

With respect to our External Affirmative Action Program/Contract Compliance -- as of July 1995, which is the most recent numbers that the Federal Highway Administration has provided to us, minorities comprised 42.9 percent of the total contractors work force and 45.5 percent of the skilled work force on those federal aid projects.

The goal in the following crafts was exceeded: Equipment operators, mechanics, iron workers, carpenters, cement masons, electricians, pipe fitters, and painters. Only truck drivers were below the goal.

The national goal for women is 6.9 percent. In Arizona, 5.1 percent of the workers were women. ADOT is one of 17 states who have elected to use a portion of its federal funding to implement a training program for minorities and women.

The pre-apprenticeship program is administered by the Governor's Division for Women.

Partnerships have been created among contractors, unions, ADOT, other community organizations, and the Maricopa Skills Center to ensure the program's success. Approximately 60 percent of those who have completed the course are working in the highway construction industry.

The Contract Compliance program is administered by Travis Benton. Mr. Benton is a Certified Compliance Administrator by the American Contract Compliance Association and the University of Minnesota. This certification was paid for by the agency.

ADOT has also developed relationships with the Tribal Employment Rights Officers in order to facilitate the employment of American Indians on highway construction projects. This office participated in the development of FHWA's Partnering for Indian Employment in Highway Construction and sponsored one pilot course.

With respect to Title 6: In the past the emphasis on Title 6 has been on the impacts of proposed projects. ADOT is in the process of revising its current Title 6 program with assistance from the Arizona Center for Law in the Public Interest, various ADOT offices, the Federal Highway Administration, and the councils of government to reflect a change.

The new emphasis will be on the planning and programming process. The transportation disadvantaged -- historically minorities and low income families -- must be sought out and encouraged to participate. Their needs must be fairly considered during the programming process.

Federal Highway Administration has indicated this approach is new and that ADOT may be a leader in the nation.

The Affirmative Action Office addresses, with respect to the ADA, we address requests for reasonable accommodations, issues in the workplace, and concerns about the accessibility of ADOT's services.

The letter I received asked that I discuss specifically or acknowledge incidents of discrimination, and this office has been involved in addressing general and specific instances of alleged discrimination.

I cannot provide the number of complaints quite simply because they weren't tracked. The instances involved alleged discrimination on the basis of race, national origin, gender, sexual harassment, retaliation, and disability.

These allegations did not indicate a pattern or a practice of discriminatory actions within the agency. They were isolated instances occurring in a diverse work force located throughout the entire state.

Highway departments have historically been white male dominated, and bringing cultural change to these organizations takes time. I believe ADOT has

made significant strides in changing the corporate structure.

How these issues are addressed: When an employee believes he or she has been discriminated against for an unlawful reason, he or she can choose to pursue it through an informal or formal process.

When filing an informal complaint, the employee may go to an EEO Counselor for assistance. EEO Counselors come to the Affirmative Action Office for assistance when working these complaints. Or the employee may come directly to the Affirmative Action Office.

When an employee comes to the Affirmative Action Office, our process is that a staff member will interview this individual. They will explore the nature of the complaint to draw out whether unlawful discrimination may have occurred.

A decision will be made whether there are grounds to investigate the complaint. If there is no indication of discrimination, the employee will be advised of what other options are available.

Occasionally, this office will assist employees with other concerns not related to discrimination, and mediation has also been used to solve conflicts.

The investigation consists of two separate processes. First, all possible and potential witnesses are interviewed. Sometimes second interviews are needed. Second, any and all relevant documentation is read. Examples of documentation can include personnel files, training reports, other investigations, and any notes from meetings and so on that someone may have with them.

If the investigator believes there may be cause, a report is prepared. This report includes a statement of the complaint, what our investigation was, our findings, and our recommendations.

If there is no cause, the complainant will be so advised and again other options are explored. If we determine that other issues not related to discrimination are found, the appropriate people are notified within the agency.

Employees have two choices for filing formal complaints. We have the ADOT employee problem solving procedure, or the employee can go directly to EEOC.

The Employee Problem Solving procedures consist of five steps when an allegation of discrimination is made. The Affirmative Action Office is notified of the grievance at Step 2.

Then sometime prior to the Agency Director responding, which is Step 4, to the grievance, the Affirmative Action Administrator will review the complaint to determine if there is reason to believe discrimination may have occurred. If so, an investigation is conducted and a report is prepared.

The fifth step is the Arizona Department of Administration, where another investigation may be conducted.

Employees may bypass all of these steps and go directly to EEOC. When this is done, the Agency responds to EEOC's request for additional information. We do not conduct a separate investigation into the matter.

And we have also indicated that we are interested in mediation. And in the event it's necessary, we will pay for an outside mediator to come in and conduct those mediations, because of the concern there is a conflict of interest between the Governor's Office and the complainants.

When a finding of discrimination is made by the Affirmative Action Office, a recommendation for disciplinary action is made.

These actions have ranged from letters of concern to dismissals. Agency managers have been demoted or fired over an unlawful discrimination issue. We do not tolerate unlawful discrimination.

You asked for a general statement of Affirmative Action. The Agency continues to work to ensure that this is a workplace free of discrimination and harassment. This emphasis has not changed since I joined ADOT in 1985.

My recommendations. When an employee uses the internal processes for resolving complaints, there is a better chance for addressing whatever problems are occurring. This is true whether the complaints involve discrimination or other work related problems. Only after internal processes are used, should an employee go outside of the Agency to seek relief.

Thank you. And I do have these written, since I spoke rather quickly.

CHAIRMAN PENA: Eddie Edison?

MR. EDISON: I don't have a prepared statement. I was asked to participate in answering any questions. I didn't know I was going to have to make a statement until I got here today.

CHAIRMAN PENA: What is your position with the ADOT.

MR. EDISON: I'm the EEO specialist, and I report to Lisa Wormington, and I handle the internal investigation of any complaint efforts of discrimination and also coordinate and manage the Disadvantaged Enterprise Program.

CHAIRMAN PENA: How long have you been in that position?

MR. EDISON: With ADOT? Been with ADOT going on nine years.

CHAIRMAN PENA: Doing what you're doing?

MR. EDISON: No. This position -- I've been in this position since 1985 -- '95 excuse me. I was promoted up from EEO Specialist III. Trinky Madrid, he used to be the EEO Specialist in before I was promoted into it.

CHAIRMAN PENA: Members?

MS. WEBB-VIGNERY: Thank you Mr. Chairman. I wanted to clarify something. Did you make the statement that you have not tracked the complaints that flow through your office?

MS. WORMINGTON: Mr. Chairman, Dr. Vignery, that is correct. We deal with not formal complaints -- informal, and there are the formal charges with EEOC. We have tracked the formal charges that EEOC. We have only recently been tracking informal complaints.

MS. WEBB-VIGNERY: But you've tracked formal complaints that have come through your office, the ones that haven't gone to EEOC?

MS. WORMINGTON: The ones that have gone to.

MS. WEBB-VIGNERY: Only the ones that have gone to EEOC?

MS. WORMINGTON: That's correct.

MS. WEBB-VIGNERY: You don't have a historical analysis of the what complaints have been from what area?

MS. WORMINGTON: No.

MS. WEBB-VIGNERY: Or what has happened within the organization?

MS. WORMINGTON: That's correct. My best ability being there 12 years, I remember -- I have a fairly good memory of what came through.

MS. PETERS: Mr. Chairman, Dr. Vignery, if I could please, we do have a tracking mechanism for formal grievances, and in most cases if an employee makes a complaint, a formal grievance alleging discrimination, those are tracked through our personnel office.

MS. WEBB-VIGNERY: Thank you.

CHAIRMAN PENA: Are there any other questions?

MR. ZAZUETA: Yes. I have a couple of questions. First for Ms. Peters.

I'm very happy to hear that your agency has such high goals and performance this morning for Affirmative Action.

This morning we heard quite a bit of testimony that ADOT was the most biased and prejudiced agency in the State, and there were some specifics to that. When Ms. Canales spoke, she spoke of some scores tampering on some evaluations. And some retaliation and reporting some of her complaints to you.

Do you remember any of these items?

MS. PETERS: Mr. Chairman, Mr. Zazueta, I do have some knowledge.

Unfortunately, this is the first time I've heard of those specific allegations against the Agency and against myself specifically.

I can probably answer some specific questions of some circumstances in that time frame.

For instance, with regard to the allegation that scores were changed on an evaluation, those scores -- we have at the Agency --

Part of what we're trying to implement in our organization is a culture that values every employee. As such we have changed our employee evaluation process from the one that we used that we called 360 degree evaluation process.

In that process subordinates, peers and supervisors all rated an employee on an annual basis. We think it's very important to have that kind of broad based representation.

With regard to Ms. Canales' specific evaluation, there was a score rendered by a subordinate. After talking to Ms. Canales, I did not feel it fairly represented what should be on her evaluation because of some specific circumstances that had occurred between she and the subordinate and, in fact, raised those scores.

MR. ZAZUETA: Thank you. And for Ms. Wormington, I'm very familiar with the Affirmative Action Office. Many years back we fought to open that office and had to have lawsuits to get that office opened, even before Trinky Madrid and Mr. Joe Eddie Lopez.

We had quite a few suits by the general contractors and others, not to open that office, even though there was a federal mandate of some Affirmative Action Program, federally. I'm glad that you have overcome some of those real large obstacles.

But the perception still is that the office is not doing its job. I'm sure that you have a lot of problems to do your job in the affirmative area and minority business enterprise area specially.

But with one specific question, why are there no Hispanics in your office?

MS. WORMINGTON: Mr. Chairman, Mr. Zazueta, quite truthfully there is

currently a Hispanic in the office. The report that you got is a little old.

Our continuing education -- Continuing Office of Education student is Hispanic. Otherwise the reason why there are no Hispanic professionals, as many other State agencies and offices throughout ADOT, my office has lost two positions over the last several years, diminishing the opportunities to hire people.

In addition to that, all of you have received a copy of the diversity team report, and one of their recommendations is that we should promote from within wherever possible. I have chosen to practice that.

When I hired Eddie and Tom, I went to the inside -- I hired them from outside. Since they've been hired in '89 -- since '93 I've had one position available, and that was when Mr. Madrid retired, and there were three candidates for the position. Eddie, Tom and Travis Benton in my office.

And so I promoted from with within and promoted one of them.

There has not been another position that's been available except for my secretary, who retired last year. We received a certification list of many, many candidates.

One individual chose to interview out of all of those candidates. And she's African American.

Otherwise if I can speak a little bit to who has worked in the office in the past. Because I feel there is a perception that perhaps opportunities have not been there.

In the past I've had a Filipino individual work in there. There have been two Native Americans, one Navajo, one a Alabama Coushatta individual.

I've also had an another African-American, Art Loring. Trinky Madrid retired there after a great deal of service, and Carlos Avelar worked there for an extensive period of time until he chose to move to the County for promotional opportunities. I still maintain contact with Carlos.

MR. OSBORN: Mr. Chairman, Ms. Wormington, I think I heard you mention the report on the glass ceiling initiative by the United States Department of Labor in 1991 report. Did you refer to it?

MS. WORMINGTON: Chairman Pena, Mr. Osborn, I believe the reference to the report is in the diversity team report. I didn't speak of it today.

MR. OSBORN: Pardon me. My mistake then. Are you familiar with the report?

MS. WORMINGTON: Yes, ma'am, I am.

MR. OSBORN: Would you consider that a favorable review of the ADOT's minority hiring and promoting practices?

MS. WORMINGTON: I'm sorry. I'm confused.

MR. OSBORN: I'm speaking of a report on the glass ceiling initiative by the U. S. Department of Labor in 1991. I realize that's five or six years ago. But you've been there 12 years?

MS. WORMINGTON: Yes, sir.

MR. OSBORN: Well, I just want to go into a couple points and get your reaction to them.

It says here ADOT requires managers and supervisors to attend EEO and AA courses. However, this is not being enforced.

Also, the Affirmative Action Office has not been asked to speak at staff meetings and conferences and et cetera on Affirmative Action and equal employment in two years.

Now, that was a 1991 report. Do you recall anything like that?

MS. WORMINGTON: Yes, sir. I believe the report you're referring to is our diversity team report.

Since that report was prepared in 1993, this office has been involved in speaking at staff meetings and participating, for example, in the Executive Quality Council.

We have a given talks to top level management about their Affirmative Action and EEO responsibilities. And at least in the Highway Construction Districts, there has been much greater emphasis on ensuring that all of their employees attend Preventing Sexual Harassment class and the EEO Affirmative Action class.

MR. OSBORN: You're talking about a diversity -- culture diversity report?

MS. WORMINGTON: Yes, sir.

MR. OSBORN: That's what you're referring to?

MS. WORMINGTON: Yes, sir.

MR. OSBORN: I want to further quote from that then.

"Managers and supervisors are not held accountable for their efforts in Affirmative Action. ADOT does not have a process in place to monitor managers'

and supervisors' Affirmative Action efforts."

Again, I acknowledge this is an old report. It's like five or six years old. That situation has been corrected in your opinion?

MS. WORMINGTON: It was corrected for one year. It is not currently corrected.

MS. WEBB-VIGNERY: Mr. Chairman?

CHAIRMAN PENA: Dr. Vignery?

MS. WEBB-VIGNERY: Has there been any effort to include that particular requirement in directors' evaluation components, for example?

MS. WORMINGTON: That particular criteria was included for a year in everyone's evaluation within the Agency. I don't know why it was removed.

MS. PETERS: I could speak to that, Mr. Chairman, Dr. Vignery.

Criteria was removed as I spoke to earlier. We changed evaluation processes within the organization, and unfortunately that particular criterion was removed as part of converting from the prior employee evaluation system process to the one we're using today, which is a 360 degree process.

A team of employees developed the new process and the new criteria and did not include that. It has been noted as an oversight. That process is undergoing evaluation as we speak, and it will be included again in the future.

MS. WEBB-VIGNERY: Can I follow up on that?

CHAIRMAN PENA: Sure.

MS. WEBB-VIGNERY: Following up on that, does the Affirmative Action for ADOT sit on the advisory group to the Director when these types of issues with being discussed?

MS. PETERS: They did not in the past. I was told there were monthly meetings with Ms. Wormington and other managers of the Transport Support Group. We talk about issues such as this, and have an opportunity to get broad spread input from the group, including Ms. Wormington on issues such as this.

MS. WEBB-VIGNERY: Thank you.

CHAIRMAN PENA: Mr. Osborn?

MR. OSBORN: That's all I have. Thank you.

MS. QUIJADA-OLIVAS: Mr. Chairman, I have a few.

CHAIRMAN PENA: Ms. Olivas.

MS. QUIJADA-OLIVAS: Ms. Peters, you indicated in your statement that until this morning you were not aware of some of the allegations made against ADOT.

My question was as the Deputy Director, were you aware of the hiring and the evaluations or consulting work that took place by Dr. Perez and his recommendations to the Department which he indicated he is working with some personnel and at some point he reached what I would interpret as dead end? Were you not aware of his performance and his recommendations and the fact that it, in fact, covered some solutions to the problem?

MS. PETERS: Yes, I was aware of his recommendations. What I spoke to earlier, if I could clarify, some allegations which I was not aware of were -- some of those made by Ms. Canales or Mr. Puente I just had not been aware of those specifics.

With regard to Dr. Perez's testimony, absolutely, yes. And, in fact, our office was involved with Ms. Sale in looking for additional solutions to the problems in the general operations area.

And she certainly counseled with us closely in the decision to bring in Dr. Perez from the outside to help us look at that area, and the problems that were in that area.

She briefed the Director and myself on a regular basis as that process went about, including the early change in direction when they had use a standardized training program. Then once I got in there and had an opportunity to meet with a work group and change that to a more specifically directed program that would deal with the problems in the area.

I would, however, say that I do not feel on behalf of the Agency that his efforts were shortcut or short changed. In fact, Dr. Perez, as he testified, completed his initial analysis of the area and did some investigation on his own and issued a report.

He did confer with Ms. Sale and myself, in fact, about some of his concerns and with Mr. Courter and Mr. Sukanik in terms of their responsiveness to him.

And Ms. Sale was instructed and did take steps to make sure that interference did not occur. Mr. Perez issued his report, in fact.

Following that Ms. Sale met with him and urged him to continue and not make it final after that point in time.

As he also testified, the organization was going through some rather large organizational change at that time. He agreed to come back because the organization was changing and that was not followed through with by himself as well.

MS. QUIJADA-OLIVAS: Keeping that in mind, you indicated that was a change in the evaluation process, and it was inadvertently left off. Wasn't this a mechanism that was very fresh and the recommendations very evident to ADOT when the new evaluations were put in place?

MS. PETERS: It was an issue that had still continued to be fresh on in our minds. However we were actively working that issue.

When we were endeavoring to develop this 360 degree performance evaluation, it was something quite different for State agencies, and we also were under a rather tight time line to put that in place.

The team -- and it was a team of employees who developed that. In fact, they received some information from other organizations who were using that type of performance evaluation. And, again, simply did not include it. The oversight has been recognized and is being corrected.

MS. JULIEN: Mr. Chairman, Ms. Peters, you say a team of employees changed the evaluation system. Couple questions on that.

First, what do you remember the date that that was changed the year?

MS. PETERS: Mr. Chairman, Ms. Julien, I believe we're in our second full year of using that evaluation system, just approaching the second year.

MS. JULIEN: What was the makeup of the team of employees? Specifically was anyone from the Affirmative Action Office involved?

MS. PETERS: Mr. Chairman, Ms. Julien, I do not recall that they were. I would defer to Ms. Wormington.

MS. WORMINGTON: Mr. Chairman, Ms. Julien, I don't believe anyone from my office was involved in that process.

MS. JULIEN: Ms. Wormington, to whom do you report?

MS. WORMINGTON: Mr. Chairman, Ms. Julien, I report to Mary Peters.

MS. JULIEN: And Mr. Chairman, Ms. Peters, to whom do you report?

MS. PETERS: I report to the Director of the Department, Mr. Larry Bonine.

MS. JULIEN: If I'm an employee with a complaint about either Ms. Peters

or Mr. Bonine, is my only recourse to go to the office that reports directly to you, or is there another avenue?

MS. WORMINGTON: Mr. Chairman, Ms. Julien, what we have done in the past in instances where there has been a conflict of interest such as that, we've asked an external agency to conduct the investigation because of that problem.

However, I've never felt compelled not to stand up and say what is correct. And you heard Ms. Canales speak to you this morning when Mary and I met with her regarding incidents of discrimination, you know, I would have preferred at that time had she told us that she felt she was being discriminated against to at least give the Affirmative Action Office the opportunity to address those issues that she was experiencing. For whatever reason she has told you why she felt that she couldn't do that, and I respect those reasons.

However, I've been known to stand up and say things that people have disagreed with in the past, and I would do it again if I felt that it was appropriate.

MS. JULIEN: And just one last question. Ms. Wormington, you said a couple of times, "I hired this person. I hired that person."

When the process of hiring is taking place, are you responsible singularly for doing the interviewing and the hiring, or do you use a team?

MS. WORMINGTON: Chairman Pena, Ms. Julien, up until my most recent appointment when I appointed Eddie Edison, I had done the interviewing myself and hired myself.

When this past instance came up, I heard through the rumor mills within the Agency that there was a great deal of concern about preselection within my office.

And so I based the decision to hire on past work experience, past performance appraisal scores and then the interview scores from four separate people.

I had Dr. Valenzuela participate in the interview panel and Rudy Rodriguez participated. Clem Webb, who works in our Motor Vehicle Division is an African American woman and Dave Schmitt, who was working out of the Director's Office actually interviewed and scored the individuals. And I then appointed the individual who had the highest score.

MS. JULIEN: Thank you.

CHAIRMAN PENA: Mr. Garcia?

MR. GARCIA: Mr. Chairman, Ms. Wormington, had you -- at the time that I assume Ms. Canales approached you regarding a concern, had you thought of

meeting with her by yourself rather than having Ms. Peters present at the same time?

MS. WORMINGTON: Chairman Pena, Mr. Garcia, Ms. Canales never approached me directly with her concerns.

MR. GARCIA: So the meeting you had was initiated or came about because of what?

MS. WORMINGTON: Chairman Pena, Mr. Garcia, I was asked to attend the meeting with Mary to try to resolve these problems.

MS. PETERS: If I could, Mr. Chairman and Mr. Garcia, I will clarify. As Ms. Canales has testified this morning. She came to me with some concerns about the Director, Mr. Bonine.

She and I met and talked about those, and I was concerned.

As I always do when an employee comes to me about concerns, even if they don't speak directly to the issue of discrimination, I try to be cognizant if I'm hearing things that might infer they feel discrimination based on gender, race, age, things like that.

I often ask the employee if they feel that those issues are there, even if they don't specifically mention that. I almost always will consult with Ms. Wormington or her staff after a meeting where I'm not clear if there has been disclosed an issue of discrimination. I feel we have a responsibility to act on those situations.

In this particular case, after I concluded my conversation with Ms. Canales, even though she said to me that she did not want me to speak to Mr. Bonine about the issue other than to caution him about not patting people or hugging people, which I certainly did, I spoke to him about that.

I did speak with Ms. Wormington and told her I did have some concerns that perhaps there were issues of discrimination that I did not feel I had the luxury not to deal with in spite of the fact that Ms. Canales suggested that I not, other than to suggest to Mr. Bonine that he not hug or pat or touch people.

So that is the point in time where I contacted Ms. Wormington, discussed it with her, and we felt perhaps there could be issues of discrimination, and it was important to talk directly to Ms. Canales. We felt she had an opportunity, if she did feel there was discriminatory behavior, to disclose it to the professional.

MR. GARCIA: You didn't feel it would be intimidating, her response, if you were in that meeting?

MS. PETERS: Mr. Garcia, Mr. Chairman, I did not. Ms. Canales had at that point a very open relationship, as evidenced by the fact that she came and

consulted me about behavior that she felt was inappropriate.

So we met often on a weekly basis. We had a very open relationship, and I did not feel that I myself would be intimidating.

MR. GARCIA: One more question.

Earlier we heard testimony from Mr. Puente about a reprimand that he received. I believe that was from you. Can you go into the details?

MS. PETERS: Because this is a closed issue, personnel issue, and because Mr. Puente brought it up this morning, I am free to discuss it, while we don't normally discuss personnel issues.

The particular situation involved an employee, an Hispanic employee, as he mentioned, in the Winslow area. The employee had been for a number of years a Maintenance Technician III, which is the top level of a maintenance position and going into a supervisory position.

The particular employee, as Mr. Puente testified, had a club foot, a disability, if you will. And this particular disability affected his ability to wear steel-toed safety shoes, which are required in the type of work that the employee was performing.

MR. GARCIA: Can I interrupt? Was that requirement brought in after he had been in that position?

MS. PETERS: Mr. Chairman, Mr. Garcia, to my recollection, no, it was not. It had been a long-standing requirement, but I can't say because he was such a long-term employee that that requirement had been in a place when he was originally employed.

This particular employee has another problem in that he was also a diabetic and very subject to lesions or problems with his feet.

We were working very actively with the District Office and with Ms. Wormington and, in fact, had referred this particular employee out to be evaluated and fitted with a special type of shoe that he might be able to continue and would not endanger his foot condition and still be comfortable because of the club foot but not endanger the diabetic condition in his feet because he had had problem with foot lesions prior.

We were working this issue as ADA issue. One of the important thing we have to look at when we're working ADA issue, or Americans with Disability issues, is that we ensure that the Agency makes reasonable accommodations --

(Off-the-record interruption.)

CHAIRMAN PENA: Sir?

THE ATTORNEY: I'm the attorney in that case which is in litigation now.

CHAIRMAN PENA: Are you from the Attorney General's Office.

THE ATTORNEY: Yes.

CHAIRMAN PENA: Make your statement.

THE ATTORNEY: I need to advise her now.

(The attorney confers with Ms. Mary Peters.)

MS. PETERS: I apologize.

MR. GARCIA: You don't need to give me the details.

MS. PETERS: Real quickly, at issue was the description to the doctor of the working conditions of this particular employee.

Mr. Puente was -- the reason that Mr. Puente received a letter of concern was because he became involved in describing the working conditions or what the employee was required to do on the job.

And because we were working it as an Americans With Disability Act issue, I felt the appropriate office to work that issue was Ms. Wormington's office and the supervisor in the area, which he worked with which had the best ability to describe his working conditions.

And when Puente inserted himself into the situation after I had asked him not to do that and that we wanted to work the disability issue, he inserted himself into that situation, even after I had asked him not to.

That is when I issued the letter of concern.

MR. GARCIA: Was he not requested initially to be included?

MS. PETERS: Mr. Chairman, Mr. Garcia, I have no knowledge that he was originally requested to be included.

CHAIRMAN PENA: Any more questions?

MR. ECHEVESTE: Mr. Chairman, I'll address it to any of you. You mentioned earlier that the only grievances you track are those that go to Federal EEOC.

MS. WORMINGTON: Chairman Pena, Mr. Echeveste, I guess I didn't explain

that clearly.

In the past we didn't track that. We have begun tracking that in the last year.

MR. ECHEVESTE: All grievances?

MS. WORMINGTON: Yes, sir.

MR. ECHEVESTE: Those that go out or stay in are in the process?

MS. WORMINGTON: Yes.

MR. ECHEVESTE: Okay. I think that's all, Mr. Chairman.

MR. ZAZUETA: Mr. Chairman, I have one more follow up.

Now that you have all heard all the testimony this morning, do you have any thoughts, Ms. Peters, of a corrective action?

MS. PETERS: Mr. Chairman, Mr. Zazueta, I do. I think one thing that is very important for all of us to recognize, while these issues are very important and certainly very personal, people are hurting out there, that the sum total of the cases that have gone to the EEOC represent less than one-half of 1 percent of our total work force.

There are, as I said earlier, policies and procedures in place, numerous ones, to allow employees who feel they have not been treated fairly a place to go within our agency.

However, I do recognize that there are those who will not feel comfortable with those processes, and I believe that the procedures outlined by Mr. Moreno where we have an opportunity to bring in an independent outside mediator or alternative dispute resolution in, someone who is not connected with our Agency directly in any way, and bring in that mediation activity.

I think that very often these are issues of failure to communicate clearly with each other. And most of these issues can be resolved with clear communication and understanding with the issues, so I heartily support the mediation as an alternative to help us resolve these issues.

MR. ZAZUETA: One of the problems that was brought up with mediation is a perceived conflict of interest, although Mr. Moreno's office does not perceive that conflict of interest, as his office representing the Governor.

Some of the people that have testified feel that that is a conflict of interest, just like the Attorney General's Office stated before because they represent the State, they cannot get involved in these kind of issues. That's the same kind of

analogy that was brought up.

MS. PETERS: Mr. Chairman, Mr. Zazueta, I certainly can understand that that could be the case. We would be very open, in fact, to working with the employee to select even an outside arbitrator or mediator, someone that perhaps they would suggest.

Very often in working alternative dispute resolution in the past on contractual issues we as a State agency would recommend a group of mediators or arbitrators. We would invite the contractor or the consultant to do the same. Choose from those and then we would hopefully come up with a match.

But if not, we would continue to do that until we came up with someone who both sides felt had the ability to be absolutely impartial.

MS. WORMINGTON: Mr. Chairman, could I add something? With respect to the conflict of interest request that you asked, we would, of course, be willing to pay for what it costs to go outside.

Also, one of the suggestions that was made by another Hispanic employee -- who is not here, that the Agency thought was a very good idea, but he kind of asked us not to go forward with it until this issue was resolved with you -- was sitting up an advocacy panel of minorities in within the Agency to hear some of these complaints.

And lastly, with respect to some of the issues that you heard, the rest of the story, as Paul Harvey says, are several of the individuals that were involved in those were dismissed because of their actions or inaction. They didn't do anything to resolve the problems, or they have been transferred to other entities and have not been given the opportunity to move upward in the Agency.

MR. ZAZUETA: On the rest of the story, there will be no retaliation, correct?

MS. WORMINGTON: I offer you my sincerest promise that I will do everything I possibly can, including standing up and screaming.

There will be no retaliation to any employee that has come forward to this Commission or filed a charge with EEOC.

MR. ECHEVESTE: I didn't hear the response from your superior on that. I heard you. I didn't hear your superior regarding Mr. Zazueta's question regarding retaliation.

MS. PETERS: Mr. Echeveste, I apologize. I felt that the question was being directed to Ms. Wormington. Absolutely, there will not and has not been retaliation, nor will there be any in the future to anyone who feels they are bringing legitimate claims.

MR. ECHEVESTE: One final question. As I sit here and I listen to the employees this the morning and I listen to you in the afternoon, obviously from what we've heard there is a lot of hurt, a lot of pain, a lot of mistrust, a lot of distrust, a lot of conflict that seems to be coming forward.

From what you've heard -- and I'm sure it must be painful to you since you're up at the top -- do you see any real opportunity to bridge the gap between those that either have been or perceive themselves to be wronged within the Agency by management, between them and management at this time?

Do you see any ray of hope?

MS. PETERS: I do. Mr. Chairman, Mr. Zazueta, I do; I absolutely too. I think what you said is so important. People are hurting. You heard that pain this morning. You heard the hurt from some of the people who testified this morning.

And I will tell you personally I've had a lot of pain over these situations as well. People who I thought were very close and very comfortable working with me, feeling that I personally have discriminated against them, that is not a comfortable feeling, and certainly they're experiencing some of that pain as well.

As I said earlier, communication; we must communicate with each other. Communicating through filing charges and responding to charges, certainly while that is a right and it's a very, very important right, it doesn't get us talking to each other in a manner in which we can resolve these issues.

I do feel firmly, just like the partnering program works very well and we get to talking together, if we had an opportunity to talk together with an impartial third party who could help bridge this gap, I think we could resolve a lot of these issues.

We have tried in the Agency, for instance, a reference was made earlier to a LaVoz, a group of Hispanics, heartily supported by the Agency, supported by myself personally, in an effort to provide a forum where Hispanic employees can talk and raise issues, and we can interact.

We have made an effort to send a number of Hispanics employee to leadership training program. Come back and talk to us. Let's try to work on these issues. Unfortunately, we have had a major communication breakdown in these particular areas.

I appreciate your comments. You're right on target. There is a lot of pain. The solution is communication.

MR. ECHEVESTE: If I may, Mr. Chairman, one final perspective. Communication is extremely important.

But sometimes perception, perception becomes reality. If one is perceived

a certain way, no amount of anything one says can break that perception. There has got to be a very, very great effort and energy extended and expanded and strategies to break that perception.

Just a final thought on this, I think there is a very, very strong perception there. You know, only the findings will tell what the issues and problems are and who is right and who is wrong and whatnot, but I can't help but observe that there are some very strong perceptions that have to be cleared up before one can gain the trust and the confidence to be able to even be candid in terms of what they're feeling.

CHAIRMAN PENA: A response is not necessary unless you would like to.

MS. PETERS: That's fine.

MR. GARCIA: Mr. Chairman, one additional question.

Ms. Peters, what mechanism, if you could explain it to us, exists today within your department should any of these allegations that we've heard earlier -- let's say they happened last week.

What mechanism do you have in place today that could address those issues and how would you go about it?

MS. PETERS: Mr. Chairman, Mr. Garcia, first of all, awareness that the issues are out there so that we have an environment of trust, as we spoke to earlier, where the employee would come forward and disclose these.

We do have the problem solving procedure. We have, as Ms. Wormington testified to, at least two direct avenues within the Agency that employees can bring the issue forward.

MR. GARCIA: Can I interrupt? How long has the problem solving procedure been in place?

MS. WORMINGTON: Chairman Pena, Mr. Garcia, for as long as I've been with the Agency this process has been in effect.

MS. PETERS: I would answer the same thing.

MR. GARCIA: If it was in place at the time I perceive some of these allegations occurred, why didn't it work?

MS. PETERS: I wish I knew.

MR. GARCIA: What mechanism exists today that would change if so it's more effective, is really what I'm trying to ask?

MS. PETERS: Mr. Chairman, Mr. Garcia, it's important to note that in the preponderance of cases it does work. As I stated earlier, the active EEOC complaints that are out there represent less than one-half of 1 percent of our work force. It has worked in the past.

If an employee felt that it would not work today under circumstances today, certainly they still have the opportunity to go outside the Agency, as Ms. Wormington testified, to the EEOC and open that process up.

We also have within our organization very, very open communication channels. There is no restriction, no problem at all of someone walking directly into my office, directly into Mr. Bonine's office if they perceive the system is not working for them at any levels of the organization.

In fact, that has happened, and we have interceded. Mr. Edison has been directly involved in some of those cases where we have interceded, where an employee did not feel that the process was giving them due process or an opportunity to be heard.

MS. WEBB-VIGNERY: We've mentioned the glass ceiling report several times here this afternoon, and it just occurred to me that in the report, the statement was made that the Director of an agency has the power to change whatever is happening within his purview, his or her purview, and the Affirmative Action officer's suggestions to the Director can be a very important mechanism.

I've heard that there is an mediator team, the Affirmative Action officer and the Director at the DOT, which is yourself, Ms. Peter, and perhaps there needs to be more discussion going on between the Affirmative Action officer and the Director.

Between the expertise of EEO and Affirmative Action and the Director's power there might be a mechanism for change.

MS. WORMINGTON: Chairman Pena, and Dr. -- I don't want to butcher your last name.

MS. WEBB-VIGNERY: You're not by yourself.

MS. WORMINGTON: Mine gets butchered, too.

I would like to make a comment. You've heard many individuals talk today about problems the Agency had in the past. Specifically, Mr. Stanley talked about past problems. Ms. Canales referred to some of the past problems. The managers involved with those problems, like I said, are no longer with ADOT. And not necessarily by choice.

We did take action when that occurred.

I would like to say that as a part of our changing culture, the emphasis from being a real fine engineer administrator has changed. In the past, agency decisions were made on whether or not you were a good engineer, whether or not you ran your agency well, and if you had people problems within your agency, that may have been secondary.

Since it's been my privilege to work with Mary Peters, I no longer have to go in there and dance when I feel a severe disciplinary action is required.

When I feel that someone needs to be demoted or someone should be terminated because of their actions whether they're related to unlawful discrimination or something else, that's none of my business, I'm heard fairly. And in many cases that action follows.

So as you heard Hope Hernandez say, from the union it seems that things are better and things are changed. That is correct. We are trying very, very hard.

I would ask that the employees in this room, if they feel that something occurs to them tomorrow or if it happened to them last week, that they would come talk to us without putting it in writing, without looking for a written statement from them that creates the hassle factor. They require the employee to put everything in writing. You're creating a barrier.

They can feel free to come and say what their problem is so we can look into it. If we disagree whether it's unlawful discrimination, so be it. We at least get the opportunity to address it.

In some of the cases brought to you today, we were not given the opportunity to at least address it.

CHAIRMAN PENA: Any other questions? If not, thank you for being with us today.

(Recess ensued from 3:23 to 3:35.)

CHAIRMAN PENA: The hearing will reconvene, and we will now here from the Attorney General's Office, I guess David Talamonte and Robert Sokol.

MR. TALAMONTE: Mr. Chairman, members of the Advisory Committee, my name is David Talamonte, I'm the Chief Counsel Transportation Section of the Attorney General's Office.

We give advice to the Department of Transportation on a variety of issues, all within their statutory mandate in the Arizona statutes.

Mr. Sokol is one of the attorneys, one of 14 attorneys in the section. He specializes in personnel matters with the section and with the Department of Transportation.

Some -- there has been mention of the inherent conflict that does exist between us as Attorneys General giving assistance, giving rise to the Department and employees that may have personnel or grievance or some problem with the department.

To that extent we are prohibited from dealing directly with the employees on some of the matters and issues that are being discussed and raised here today.

But we do not operate in a vacuum. In discussing the issues that Ms. Youngblood, the analysis, I've told her that our section has both the professional -- and speaking for myself only -- I have a personal interest in these areas, this type of complaint.

I know that in the exercise -- I guess, I can tell this committee -- that in the exercise of legal advice that we provide to the Department, we are consultant, that these issues may arise and in the scope of giving advice to the Department, I can assure the Committee that our advice at all times would be to follow the law.

Also saying that, I have in the five months that I have been chief counsel for the Department of Transportation, I have not seen anything that would indicate to me that management, Mr. Bonine, Ms. Peters, that there would be any reluctance to follow any legal advice that our section may give in this area. Other than that though, I have no prepared statement, but will be happy to answer any questions. As I said, Mr. Sokol may have some comments for you as well in his capacity as the primary Assistant Attorney General who handles personnel actions on behalf of the Department.

CHAIRMAN PENA: Mr. Sokol?

MR. SOKOL: Thank you, Mr. Chairman.

I work closely with Mary Peters, with Lisa Wormington and the Affirmative Action people, with Jerry Moreland, who is the head of the ADOT human resources office.

And I have a dual function as an Assistant Attorney General. One is to advise the Agency what I consider legal. The other is as a representative of the people of the State of Arizona to see that the law is followed, not only to defend them, in other words. It's to see that the law is followed.

It sometimes occurred that employees are disciplined and it sometimes occurs that those employees are minorities. Those two facts don't mean that there is a connection between the two of them.

It doesn't mean that discrimination was an impetus or a causal factor in the discipline.

I have to say that I worked with these individuals for several years, and I am

very confident in stating that they are extremely sensitive to any suggestion of racial, sexual, religious or other type of discrimination. If there is a whisper of it, they immediately react, investigate it and they take action.

I have never had a problem with them not following any advice I've given them or doing anything that I thought was contrary to my conscience.

I think that -- I didn't hear all of the testimony today since I arrived late. I think there are some cases where there may have been inappropriate behavior, and I think there are some cases where employees were simply not happy with what was meted out to them by the circumstances, whether it was a disciplinary action or loss of their position or modification of their position. I don't believe that in any of those cases there was any motive of discrimination.

The employee that feels that he or she has been discriminated against has several avenues opened for them to pursue. One is internal, and that's the grievance procedure, or I think it's called the problem solving procedure.

That goes up to -- it goes up four levels to the Director of the Agency, and if discrimination is alleged, then it goes to the Department of Administration as well, which is a separate agency, and it's handled outside of ADOT.

In addition to that, if discrimination is alleged, Lisa Wormington's office investigates it independently and arrives at their own findings and conclusions.

The State employee who has been disciplined by more than a 40-hour suspension is entitled to appeal that to the State Personnel Board, which is an independent body of five individuals who assign a hearing officer, who is an attorney, to hear cases, to take evidence, to listen to witnesses.

They have subpoena power. They make findings of fact and conclusions of law which the State Personnel Board then rules on.

So that would cover dismissals, demotions, suspensions of greater than 40 hours.

There is also the Whistle Blower statute in Arizona, which entitles an employee who sees abuse of power, abuse of authority, mismanagement of funds, to disclose this to a public official, and then to be heard on the same State Board if they are subsequently disciplined in evaluation for that.

There is the EEOC, which ADOT employees can take advantage of for filing claims. Finally there are the courts where they can go file a lawsuit as a last resort.

I'm not going to say that the system is perfect or that there aren't cases when people are subject to discrimination, but I think that it's improving, and I think that the motivation is there to make it as perfect as possible. Thank you.

CHAIRMAN PENA: Any questions?

MR. ECHEVESTE: Mr. Chairman, is it appropriate for this panel to ask a question related to some of the preliminary testimony that we heard leading to this meeting? I'm thinking specifically about the contracting out of certain services.

CHAIRMAN PENA: Certainly.

MR. ECHEVESTE: I thank you.

Mr. Chairman, Mr. Sokol and Mr. Talamonte, there were some allegations made in preliminary data gathering that extent -- well, strike extensive -- well, that they're in the process of, quote-unquote, privatizing. There are various things occurring that I got out of that that lead to potential illegal activity.

Are there some good checks and balances there if, for example, an employee -- and it usually would come from an employee -- feels threatened that they're privatizing a particular function, and I'm sure they're the ones that would look more closely at how that process occurs.

If an employee came to you and said that they're privatizing this, and but there is collusion. The manager, supervisor that is in the position managing that is participating with the bidder, feeding information and, in fact, ends up as the key personnel staff once the contract is received, and if that employee comes to you with that kind of allegation, is the Attorney General's Office prepared with the checks and balances to respond to those kind of allegations?

MR. TALAMONTE: The answer to your question is yes, the Attorney General's Office is empowered to investigate and look into allegations. I think we have an obligation to do so to some extent. It would depend on the nature of the privatization.

ADOT throughout is going through a privatization process in numerous areas, but I think that we would, in fact, speak to the Agency heads.

We would look into the allegations. Depending on the nature of the complaint, we may feel it necessary to refer to another section of the Attorney General's Office rather than the transportation section. But it definitely would be pursued and investigated.

MR. ECHEVESTE: Would the employee then be protected under the Whistle Blower; if he was in the process of being downsized out, privatized and therefore was either moved somewhere else or was given a severance, would the Whistle Blower statute cover that employee?

MR. SOKOL: That's called a disclosure, if it was made in the proper forum to the Attorney General, who is a public official under the statute, and the employee was subsequently affected in some way in their job, yes, they would be

covered under that statute.

MR. ECHEVESTES: Thank you.

MR. TALAMONTE: I can also say, as a matter of course, if that employee were to ask an assistant Attorney General to keep their identity -- not disclose their identity, then I think that most Assistant Attorney Generals would respect that request unless there was some legal authority compelling them otherwise.

MR. ECHEVESTES: Thank you, Mr. Chairman. I'm satisfied with your answer. I frankly have to comment that I'm very confident in the current Attorney General. I've seen his efforts demonstrated against the closest staff at the Governor's level has been pursued, so I'm very comfortable with the checks and balances there and the integrity of your office.

CHAIRMAN PENA: Richard?

MR. ZAZUETA: Mr. Chairman, Mr. Talamonte, if, say, for instance an outside entity like the General Contractor's Association, for instance, would put a suit against the goals and timetables of the Affirmative Action Program, would the Attorney General's Office defend the Transportation Department.

MR. TALAMONTE: The Attorney General's Office would. I don't believe the Transportation Section -- there is a separate section in the Attorney General's Office that is set up specifically to handle suits or claims that are filed against the State.

It depends on the nature of the lawsuit. It might be handled by the Transportation Section. However, I think it would be handled by the Insurance Defense Section of the Attorney General's Office, and they would defend the position of the State in that type of an action.

MR. ZAZUETA: Thank you.

MS. WEBB-VIGNERY: I had two questions. Thank you, Mr. Chairman.

Mr. Talamonte and Mr. Sokol, there is a division that you talk about between employer and employee, and you represent the interests of the State and the administrative units, universities and departments, that we're speaking with about.

Is there a regulation or a law that has determined that the Attorney General has a conflict of interest, or has that been declared by an existing Attorney General, or how did that come about?

MR. TALAMONTE: That is an ethical requirement imposed on attorneys by the State Bar because the Department of Transportation is our client and the nature of the dispute or claim puts our client, ADOT, and the affected employee

in an adversary situation. Then ethically we are bound to represent only one client in an adversary proceeding.

We could not give advice or counsel to the employee.

I can say, however -- and Mr. Sokol can maybe also address this. I mentioned earlier we don't operate in a vacuum. If information comes to my attention that I think merits attention of my client, then I can -- I can go to my client.

One of the things we do is have an access to the Director and the Deputy Director, and we can go to them and talk to them about problems that we've heard or problems with a particular case, problems with a particular complaint, and we can help address the problem at that level because we have direct access to the individuals that are in the position to do something about that.

But the specific answer to the question, it's an ethical violation for us to also give advice to the employee.

MS. WEBB-VIGNERY: I'm speaking from a little bit of knowledge, because I was on the Arizona Civil Rights Advisory Board. The first time that particular delineation was murky, and I know that the universities were being assisted from both areas with employees and with the employer.

And then it was only when I came back on the board that that division had been clearly delineated. So there is a historical foundation for what you're talking about.

My second question, though, is that the Civil Rights Advisory Board was set up for the specific reason to address complaints by people in Arizona, including the employees of State agencies.

And it started out as a commission to do that particular bit of work.

And it seems that what exists now, there is no avenue for State employees to actually pursue, and they have to go to the bottomless pit of the EEOC in order to deal with their problems.

Is that not true, or is there another place that they can go besides the AG's office?

MR. TALAMONTE: Well, my guess, my first answer to that would be in the testimony that I've heard today. I think I have heard expressed to this committee that there are, in fact, other avenues of redress that exist other than the Attorney General's Office. Mr. Talamonte explained the existence of some of those, and I believe Ms. Peters and Ms. Wormington did also.

You're right. The Attorney General's Office cannot create or participate in

any type of a fact-finding or investigatory proceeding to assist that employee.

The Civil Rights Division of the Attorney General's Office is part of our, "law firm." We're all the same firm for purposes of conflict, conflicting purposes.

So yes, you're right and we simply don't have the ability to address an employee's concern in a manner that perhaps we may want to but are ethically not permitted to do so.

MR. SOKOL: Yeah, there was one case within the last year where we have a mediation office in the Attorney General's Office, and they mediated a dispute between an employee and ADOT where there was, I think, a lack of confidence on the employee's part in the grievance procedure, the Agency's procedure.

And that went from mediation, and there was an agreement. Unfortunately it didn't solve the problem, but we tried.

MS. WEBB-VIGNERY: Thank you, Mr. Chairmen.

CHAIRMAN PENA: Mr. Osborn?

MR. OSBORN: I don't want to engage Mr. Sokol in a verbal jousting match, but I think I heard you say that in the normal course of events, it's sometimes necessary to discipline an employee. And in the normal course of events that employee could be a minority member.

Is it not also possible in the normal course of events that a supervisor could behave inappropriately and take such actions short of violating the law that would create a kind of atmosphere of fear and apprehension among the employees? Is that not also possible?

MR. SOKOL: Certainly possible.

MR. OSBORN: Thank you. That's all I have.

MR. ZAZUETA: I have a question, Mr. Chairman, on the follow-up question.

On the mediation process, we heard a lot about some new mediation programs and your mediation program, Mr. Sokol.

How legally binding are these programs?

MR. SOKOL: I think that depends on how the parties enter the mediation. If both sides agree on binding mediation, then whatever agreement comes out will be like an enforceable contract between them.

I think Mr. Moreno was speaking about nonbinding mediation, unless I'm mistaken, where it's more of an attempt to conciliate the parties and get them to

some resolution, which doesn't prevent either one from taking legal steps after that if they're not happy with the outcome.

So there are both possibilities.

MR. ZAZUETA: But they have to go into the program --

MR. SOKOL: You have to go in knowing which way.

MR. ZAZUETA: Okay.

CHAIRMAN PENA: Any other questions? If not --

MR. GARCIA: I have one, Mr. Chairman.

Mr. Talamonte, you mentioned that you were in the capacity of Assistant to the Attorney General for five months.

MR. TALAMONTE: I've been in this position for five months, yes.

MR. GARCIA: What was your assignment prior to that?

MR. TALAMONTE: I was in private practice for 10, 11 years prior to that. I worked for State government in years past, but in the immediate preceding ten years, I was in private practice.

MR. GARCIA: Mr. Sokol?

MR. SOKOL: I had been with Transportation since 1994, I think. Before that I did child support enforcement prosecutions.

MR. GARCIA: In the current capacity since '94?

MR. SOKOL: As assistant attorney.

MR. GARCIA: Regarding human resource issues?

MR. SOKOL: With a different system.

MR. GARCIA: Regarding human resource issues?

MR. SOKOL: Human resources I've been dealing with for three or four years.

MR. GARCIA: In regards to the Department of Transportation?

MR. SOKOL: Yes.

MR. GARCIA: Regarding the testimony that we heard earlier today and even later this afternoon, in taking into account that based on your statements regarding your awareness of extreme sensitivity for the Department, all of these problem solving, stop gap procedures that exist and existed previously, are you surprised that all of that may have failed, hearing the testimony today of some people that feel they were very unfairly treated?

MR. SOKOL: No. I'm not surprised. They're close to 5,000 employees at ADOT, and it's a very active organization. They have a lot of work to do. They've gone through several budget cutting periods, SLIM is one, and then there is a lot of reorganizations and that kind of thing causes dissatisfaction in general.

MR. GARCIA: I assume there is also the possibility they could never get to your level in terms of you needing to represent the Department in any way because you're unaware of it; could that also be?

MR. SOKOL: I'm aware of some of these problems. Is that your question?

MR. GARCIA: Yes.

MR. SOKOL: Yeah, I was aware of some of these problems. In my opinion they were dealt with fairly by the Agency.

MR. GARCIA: One last question, Mr. Chairman.

Mr. Talamonte, you mentioned earlier that you had access or you currently have access to the Director and also the Deputy Director of this Department. That if you had information regarding some concerns, that you could go directly to them to discuss these issues?

MR. TALAMONTE: That's correct.

MR. GARCIA: I would assume prior to any litigation or anything getting perhaps to the point where we're at today with this, is this something that you propose you will continue to do into the future?

MR. TALAMONTE: As indicated in my opening remarks. I would have not only a professional interest in doing so on behalf my client, ADOT, but a personal interest in doing so because I am an Hispanic attorney with a long-standing interest in this issue generally. It is one of the reasons I went to law school, so yes.

MR. GARCIA: That's all.

CHAIRMAN PENA: Any other questions? If not, we thank you for being with us today.

Members, this morning I skipped over one individual who wanted to talk to

us in Panel One, and I did so at his request. But he would now like to make a brief statement to the Committee.

Mr. Manuel Hernandez.

MS. WEBB-VIGNERY: Mr. Chairman, I will have to leave at this time, and I appreciate the effort you've put in today. Thank you.

CHAIRMAN PENA: Thank you for being with us.

(Ms. Webb-Vignery left the hearing room.)

MR. HERNANDEZ: I am Manuel Hernandez. I work for ADOT as a storage keeper at ADOT. And I've been there since 1990. I've been with the State for nine years now.

And when I came to that Department, I could see there were problems right away because I started running a warehouse there. I could tell that -- some of the Angelos would tell me that since I got there the warehouse was a mess. That this warehouse was in good shape, but since I got there it was a mess.

When I got there you couldn't find anything. I organized the warehouse. You could find anything you wanted to, materials or whatever. And then I could see, too, that the management, the people supervise, would kind of divide the minorities and the Angelos. And that's what happened to me, too.

I had to go somewhere when I was there. So all of us would take breaks in different areas. They take breaks here. We take breaks here. And the problem started -- that they came after Arthur Stanley, and I could see what was going on.

I testified for Arthur's behalf because I could see what was going on with him. And I started to get retaliation from that. Because the "N" word was used there very freely at any time. You could use it on the break.

So at that point I made a point myself not to go to the break room anymore. Like I said, the "N" word was used frequently and pointed out to the supervisors a couple of times. They said, "We're going to take care of it and we'll talk to the guys."

Well, no, they didn't do that. As a matter of fact, the guys got pissed-off at me for going there.

So then they decided the problems kept going on, so they decided to move me out of there. They moved me to 1600 West Grant Avenue to make things better, they said. I went there. And stayed there maybe two years. I was running the warehouse by myself, again, doing all the inventory, all the buying, all the paperwork. That job I'm supposed to do by myself. Anything happens to me, well, I'm on my own. If I fall and die, whatever. There was nobody there ever

with me.

Then they decided they were going to move me again. There were no reasons given to me. They just moved me again to a different area. Set me up on another warehouse and put it up and set it up, everything.

Now they come and tell me this year that we're closing you down because we need the room. They shut me down. They didn't tell me why.

I did make appointment to talk to Ms. Peters about it. About the problems that we still had. And she said, "I thought things were getting better." And I said, "No, they're not getting better. We're still in the same situation."

I was talked to about mediation, but we had two consultants come in there, and we went through this already. Can't go to Affirmative Action because if you go there within ADOT, your boss finds out about it, and they retaliate against you.

So the trust there from us is not there. We can't trust them no more. So I had to go wherever I could outside of ADOT to ask for help, because I can't get help from them.

I had to walk across and see a senator for his assistance. I belong to the union, and the union, they can't do it for us. I was asked if I discussed it with the union, and I said, "Yes."

"What are they doing for you?" I said, "Nothing because they can't do anything." The doors were closed to the avenues they say we have. I don't see them. We don't have no avenues to go to.

Out of the group that started with us on these complaints, nine of those minorities are no longer there. Since 1990 they're gone. About all the minorities they say they hire, today I'm there; tomorrow I'm gone. They will hire another minority. They will pressure you out and they're out. They hire a lot the minorities, but they don't tell you how many go out of the door.

Nine of the people that were with us are no longer there. Either they pressure them or they quit. It's like they're trying to do me.

They took me off my job as storage keeper, sent me to this place where I'm sweeping, dusting, packing boxes. Now I need to climb all the way up the ladder.

Yet the record has been promoted -- the Deputy Director, she passed a newsletter not too long ago, she's been promoted nine times to her position. Minorities instead of being promoted up, will go down the ladder.

I don't see myself, the way things are going, as ever retiring in ADOT. That's the way with a lot of minorities. We have some minorities that put ten years, twelve years, nineteen years, and they either quit because of pressure or they got

fired.

So for me to say that I have a future with ADOT now, I don't see it. And for me to say that I have offices where I can go and where I can trust for somebody to do something for me, I don't see it there. That's why I will not go to Affirmative Action, because I don't trust them.

What they done to us and the scars that I have, they don't heal that easy. Thank you.

CHAIRMAN PENA: Are there any questions? None.

Thank you very much for being with us.

That concludes the people who wanted to testify today. I just want to remind folks that the record of this meeting will remain open for ten days, and the Committee welcomes additional written statements and exhibits for inclusion in the record. And these should be submitted to the Western Regional Division, United States Commission on Civil Rights, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California, 90010.

And that concludes the hearing for today. And the hearing is adjourned. We thank all of you for being with us today.

(4:20 p.m.)

STATE OF ARIZONA

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COUNTY OF MARICOPA

BE IT KNOWN that the foregoing proceeding was taken before me, JoANN KLEMM, a Notary Public in and for the County of Maricopa, State of Arizona;

THAT proceedings thereto were taken down by me in shorthand and thereafter reduced to print by computer-aided transcription under my direction;

THAT the foregoing pages are a full, true and accurate transcript of all proceedings adduced upon the taking of said proceedings, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to nor employed by any of the parties hereto nor am I in any way interested in the outcome hereof.

DATED at Phoenix, Arizona, this 4th day of April, 1997.

JoANN KLEMM