

ARIZONA ADVISORY COMMITTEE TO THE
U.S. COMMISSION OF CIVIL RIGHTS

Law Enforcement Issues in Tucson

May 18, 2000
Amphitheater High School
Bill Murphey Performing Arts Center
125 West Yavapai Road
Tucson, Arizona

ORIGINAL

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APPEARANCES:

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Paul Gattone

Isabel Garcia

Rudy Flores Garcia

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P R O C E E D I N G S

MS. WEBB-VIGNERY: Good afternoon.

This meeting of the Arizona Advisory Committee to the United States Commission on Civil Rights will now come to order.

I am June Webb-Vignery, Chairperson of the Arizona Advisory Committee to the U.S. Commission on Civil Rights. The U.S. Commission on Civil Rights is an independent bipartisan fact-finding agency first established under the Civil Rights Act of 1957.

The Commission on Civil Rights is an independent agency of the United States government established by Congress in 1957 and directed to:

One. 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;

Number two. Study and collect information concerning legal developments constituting discrimination or denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;

1 Number three. Appraise Federal laws
2 and policies with respect to discrimination or denial
3 of equal protection of the laws;

4 Number four. Serve as national
5 clearinghouse for information about discrimination,
6 and;

7 Number five. Submit reports, findings,
8 and recommendations to the President and Congress.

9 Advisory Committees were established in
10 each state and the District of Columbia in accordance
11 with enabling legislation and the Federal Advisory
12 Committee Act to advise the Commission on matters
13 pertaining to discrimination or denials of equal
14 protection of the laws because of race, color,
15 religion, sex, national origin, age, handicap, or in
16 the administration of justice, and to aid the
17 Commission in its statutory obligation to serve as a
18 national clearinghouse for information on those
19 subjects.

20 Commission regulations call for each
21 Advisory Committee to:

22 Number one. Advise the Commission in
23 writing of any information it may have respecting any
24 alleged deprivation of citizens' rights to vote and
25 to have the vote counted by reason of color, race,

1 religion, sex, national origin, age, or disability,
2 or that citizens are being accorded or denied the
3 right to vote in Federal elections as a result of
4 patterns or practices of fraud or discrimination;

5 Number two. Advise the Commission
6 concerning legal developments constituting
7 discrimination or denial of equal protection of the
8 laws under the Constitution because of race, color,
9 religion, sex, national origin, age, or disability,
10 or in the administration of justice and as to the
11 effect of the laws and policies of the Federal
12 government with respect to equal protection of the
13 laws;

14 Number three. Advise the Commission
15 upon matters of mutual concern in the preparation of
16 reports of the Commission to the President and the
17 Congress;

18 Number four. Receive reports,
19 suggestions and recommendations from individuals,
20 public and private organizations, and public
21 officials about matters pertinent to inquiries
22 conducted by the State Advisory Committee;

23 Number five. Initiate and forward
24 advice and recommendations to the Commission about
25 matters that the Advisory Committee has studied; and

1 Number six. Assist the Commission in
2 the exercise of its clearinghouse function.

3 The purpose of the meeting today is to
4 obtain information and public comment on law
5 enforcement policies, practices and procedures and
6 their impacts on segments of the Arizona community.

7 Participants in today's fact-finding
8 forum have been requested to address the following
9 issues: Law enforcement policies, practices and
10 procedures in Arizona; community concerns regarding
11 the administration of justice in Arizona; law
12 enforcement concerns regarding public safety; and
13 recommendations for matching public safety objectives
14 with community concerns for objective treatment.

15 Among those invited to address the
16 Arizona Advisory Committee today are Arizona Law
17 Enforcement officials, community activists, and
18 representatives of advocacy groups.

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

22 Other members of the Arizona Advisory
23 Committee in attendance during this meeting are Rudy
24 G. Garcia, Paul J. Gattone, Angela B. Julien, Delia
25 Garcia Kim, Ramon M. Paz, Manuel Pena, Jr., and

1 Richard Zazueta and Isabel G. Garcia.

2 Also with us are Philip Montez,
3 Regional Director of the Commission's Western
4 Regional Office in Los Angeles, as well as Arthur
5 Palacios, Civil Rights Analyst.

6 This fact-finding meeting is being held
7 pursuant to the Federal rules applicable to state
8 Advisory Committees and regulations promulgated by
9 the U.S. Commission on Civil Rights. All inquiries
10 regarding these provisions should be directed to
11 Commission staff.

12 I would like to emphasize that this is
13 a fact-finding meeting and not an adversarial
14 proceeding. Individuals have been invited to come
15 and share with the Committee information relevant to
16 the subject of today's inquiries. Each person who
17 will participate has voluntarily agreed to meet with
18 the Committee.

19 Since this is a public meeting the
20 press and radio and television stations, as well as
21 individuals, are welcome. Persons meeting with the
22 Committee, however, may specifically request that
23 they not be televised. In this case, we will comply
24 with their wishes.

25 We are concerned that no defamatory

1 material be presented at this meeting. In the
2 unlikely event that this situation should develop, it
3 will be necessary for me to call this to the
4 attention of the persons making these statements and
5 request that they desist in their action. Such
6 information will be stricken from the record if
7 necessary.

8 Every effort has been made to invite
9 persons who are knowledgeable in the area to be dealt
10 with here today. In addition, we have allocated time
11 at 4:45 p.m. to hear from anyone who wishes to share
12 information with the Committee about the specific
13 issues under consideration today. At that time each
14 person or organization will be afforded a brief
15 opportunity to address the Committee and may submit
16 additional information in writing. Those wishing to
17 participate in the open session must contact
18 Commission staff before 4:45 this afternoon.

19 In addition, the record of this meeting
20 will remain open for a period of 30 days following
21 its conclusion. The Committee welcomes additional
22 written statements and exhibits for inclusion in the
23 record. These should be submitted to the Western
24 Regional Division, United States Commission on Civil
25 Rights, 3660 Wilshire Boulevard, Suite 810, Los

1 Angeles, California, 90010.

2 I want to thank you for joining us this
3 afternoon, and let us proceed, but before we do that
4 I would like to let everybody know that the
5 restrooms -- there are restrooms in the lobby, if you
6 find that is a necessity.

7 With that, let's open the inquiry.

8 MR. GATTONE: My name is Paul Gattone.
9 I'm one of the Committee members here. I'm the Chair
10 of the Law Enforcement Subcommittee.

11 I wanted to clarify a couple of things.
12 One is for people who are -- I think it was clear,
13 but what we're doing from now until 4:45 is we have a
14 list of invited speakers. Because this is a
15 fact-finding body and our responsibility is to
16 collect information, from now until 4:45 we have a
17 list of speakers, people from the law enforcement
18 community, activists, people from police oversight,
19 et cetera, who will give us information and answer
20 questions. The part that is open -- I mean all of it
21 is open to the public. The part for open comment
22 comes later this afternoon, from 4:45 until 7:00.

23 I'm not sure if that was completely
24 clear in the materials.

25 Just real brief, a little more

1 background. As I said we're the State Advisory Board
2 to the U.S. Commission on Civil Rights. In a series
3 of meetings last year and this year we've identified
4 issues of importance to the Committee, rank them and
5 then voted on them. And, obviously, as you're aware
6 the two issues that ranked highest were law
7 enforcement, and then tomorrow we will be doing
8 another public hearing on education issues.

9 Just to clarify something else that was
10 in the opening statement, you will notice that the
11 invited speakers today are all from Tucson or
12 Southern Arizona, because we are holding over the
13 course of this year -- holding this meeting this
14 month here in Tucson. On September 1st of this year
15 we'll be holding a similar meeting in Flagstaff, then
16 on the 16th of November of this year we'll be in the
17 Phoenix area. So, obviously, you will note there's
18 not people from Phoenix or Flagstaff invited to speak
19 here.

20 What we are hoping to do today, as the
21 Chair said, is to collect information. And we've
22 invited speakers -- obviously, this is a voluntary
23 effort, so we appreciate the speakers' involvement
24 today. And we have proposed a series of questions
25 and issues that we would like to cover, but just to

1 note, I hope it was clear to the speakers, too, that
2 the body has the ability to ask questions.

3 So I know we told people 15 minutes.
4 We'll be a little bit flexible, hopefully try to
5 stick to that. Obviously, we will give you some
6 leeway for some questions.

7 Can we have our first witness, Chief
8 Robinson, please?

9 Could you please give us your name?

10 CHIEF ROBINSON: I'm Kathleen Robinson.
11 I'm an Assistant Chief with the Tucson Police
12 Department.

13 MR. GATTONE: Okay. Chief Robinson, we
14 appreciate your coming out today. As you're aware --
15 you got a copy of the letter that I sent to Chief
16 Miranda?

17 CHIEF ROBINSON: Yes.

18 MR. GATTONE: Do you have a statement
19 to make? Maybe we could ask some questions.

20 CHIEF ROBINSON: Certainly. First of
21 all, I want to tell you a little bit about our agency
22 size, growth, some of the issues we have been dealing
23 with and try and cover some of the points that were
24 brought up in the letter.

25 I've been asked to address a little bit

1 about racial profiling in our community, how our
2 agency is dealing with it. I'll talk a little bit
3 about the use of force, the escalation, things that
4 are occurring here in Tucson. And then it also asked
5 to describe our methods for handling citizens'
6 complaints and how we deal with that with our Office
7 of Professional Standards.

8 I brought some material with me so that
9 I can refer to it in case you have questions because,
10 of course, I don't know everything. A lot of the
11 statistical information that I have I'll need to
12 refer to.

13 First of all, our agency -- we have
14 about 1200, I believe, 37 employees. Just over 900
15 of those are commissioned officers. I tell you that
16 because the makeup of our agency is very important to
17 us and how it's balanced with the community as far
18 as -- ethnicity is also important to us. We have
19 always tried to balance the racial makeup, gender
20 with that so that it reflects what our Tucson
21 community is made up of.

22 Currently, our American Indian
23 population within our own Tucson Department family,
24 we have 22 at 2.8 percent, the City's reflection is
25 3.5 percent, so we are low in that area. The Asian

1 community there are 18 Asian officers with our
2 agency, 1.5 percent, again we are low, 2.4 percent
3 within our community. African American, 35
4 officers -- excuse me, employees, 2.8 percent makeup,
5 in the City it's 3.8 percent. Hispanic we have 263
6 employees, 21.3 percent, the City is 28.7. And then
7 with Caucasian, white employees 899, 72.7 percent,
8 and then within the City it's 63.7.

9 I tell you that because with everything
10 going on both nationally and here locally regarding
11 racial profiling, I think having a balance is very
12 important. And what our community -- how we interact
13 with our community, how we relate to them is very
14 important to us. And racial profiling locally in
15 Tucson is something our Chief has been addressing,
16 our agency has been looking at since last fall.

17 He attended a community forum, I
18 believe it was in November. Many questions, many
19 issues were brought to his attention that he was not
20 aware of, and we realized at that point that there
21 are some issues here that -- there are some things
22 that we need to address, there are things we need to
23 capture statistically that we have not done in the
24 past.

25 If you remember, that was right before

1 the Y2K. We had some computer issues, we had some
2 things to deal with, but we knew that we needed to
3 devise a mechanism to capture these statistics on who
4 are we stopping, who are we contacting, how all of
5 that was being documented because of the sensitive
6 issue.

7 After Y2K was resolved Chief Miranda
8 assigned two Captains -- they were Captains, one is
9 now an Assistant Chief -- to look specifically at
10 racial profiling, how things are occurring within our
11 agency, how are we capturing the information, what
12 needs to be done, how much -- education is critical
13 out there. Educating our officers, educating the
14 community, interacting with the community.

15 One of the Captains has solely been
16 tasked with working with our community on this very
17 sensitive issue of racial profiling. Captain Levitt
18 has been tasked with that. He has been working with
19 the community in that regard.

20 There are several other things that we
21 have done. We have devised some programming on some
22 computer systems, integrated some systems so that we
23 can capture the data and the information we need
24 regarding racial profiling. Is it being done, to
25 what extent are our officers contacting, how are the

1 contacts coming about, are they coming about on the
2 officers' prerogative, is it a traffic stop, is it
3 due to a 911 call.

4 There are things we needed to put in
5 place, we have put those things in place. We started
6 in March, could have been the very end of February,
7 but I believe in March when we really first started
8 capturing some statistics, and we are now going to a
9 six-month run. In August we will be able to look at
10 those statistics, really give us a better picture of
11 what's happening here in our community and with our
12 officers.

13 The other thing that we have done, our
14 research and -- planning and research unit, we asked
15 them to go out, look at what was occurring
16 nationally, what was occurring with other agencies
17 that had a similar makeup as the Tucson Police
18 Department. We call them sister cities, you know,
19 Albuquerque, San Diego, other agencies that are of
20 similar size and makeup. We asked them to go out and
21 look at those 27 -- I believe they selected 27 other
22 cities, and to find out how they are dealing with
23 this issue.

24 We found that the large majority of
25 them were not dealing with it at all, and they have

1 stated that they were not going to deal with it until
2 they were mandated.

3 There are three agencies out there that
4 are really just about where we are at as far as
5 starting to capture statistics, starting to look at
6 the issue of racial profiling. I think Pittsburg was
7 another one that has been court mandated, and they
8 are capturing the statistics that they need to.

9 We have also tried to participate in
10 several public forums. I mentioned the one at St.
11 Marks in November. There is also a Citizen Police
12 Advisory Review Board. In January we have
13 attempted -- Chief Miranda and those of us that work
14 closely with him have attempted to publicize the
15 issue in public to get the community more involved,
16 to get their feedback, to get their input.

17 As you know, many times people are
18 afraid to come forward, especially when they are
19 dealing with law enforcement. They have concerns
20 about our officers, and there are many things that we
21 were not aware of. Some of it's culture based, some
22 of it is fear of retribution. Many people are afraid
23 to come forward.

24 So we are trying to open that up, those
25 lines of communication, so that they are comfortable

1 in coming forward if they have a concern, if they
2 feel that they have been targeted or profiled in any
3 way. We really feel we need assistance from the
4 community to do that. We can't do it alone if we are
5 going to find resolution.

6 We also have a television show here
7 called Priority One. For those who aren't aware of
8 it, we did a package in November strictly on racial
9 profiling, the definition, what it means, talked
10 about the different avenues the citizens of our city
11 have to address those issues.

12 We also in January had a live call-in
13 show with the Chief, Liana Perez, our independent
14 police auditor, and I believe there was someone there
15 from the Urban League, and there was another speaker.
16 I'm sorry, I can't recall who it was. But we did an
17 open forum call-in television show so the community
18 could call and ask questions of the Chief and those
19 there to talk about racial profiling and problems
20 within our agency.

21 We also made changes in our Internal
22 Affairs, our professional standards procedures,
23 mainly, as I said, to help us pinpoint the extent of
24 the situation in our community, to help us capture
25 what is really occurring.

1 The complainants -- or when citizens
2 come forward with a complaint they now get a receipt
3 when they make the complaint that allows them access,
4 allows them to track what is occurring with that
5 complaint. There is a new code being used to help
6 determine under what circumstances the complaint was
7 generated. Are they complaining of a traffic stop,
8 are they complaining of a contact that their child
9 had during one of our enforcement or safe street
10 operations, you know, 2:00, 3:00 o'clock in the
11 morning when we are doing curfew enforcement, where
12 did this contact come from. We feel that's critical
13 to know.

14 Most of our complaints are generated
15 from motor officers, from traffic. Are they
16 generated from self-initiated activity from the
17 officers, how is the complaint -- how is that contact
18 with that citizen, how is that being set up. Because
19 we feel it may show us some patterns, if there are
20 patterns.

21 Also, due to the public forums we have
22 gotten some really good feedback from the community
23 about perhaps our agency is inaccessible, it's not
24 user friendly. They talked a little bit about our
25 web page and how to make a complaint, giving the

1 public the information so that they know how to make
2 a complaint, who to contact.

3 We are one of the only cities in the
4 country that have both the Citizen Review Board that
5 can deal with complaints after the fact, then also an
6 internal auditor. Most cities do not have -- they
7 have one or the other. Many do not have both. So
8 that's something that we feel we need to educate the
9 public out there in their different avenues.

10 When we make a stop on a citizen,
11 whether it's due to traffic or is it self-initiated
12 activity or 911 call, how is that contact being
13 documented. We are now capturing information that is
14 given over the radio. When we run a records check,
15 we call it a 2829, when we run someone's driver's
16 license, when we have contact with someone, running
17 them for warrants, that information is being
18 captured. If the officer does check on their
19 computer in their vehicles, their mobile data
20 terminals, it is being captured from that, and then
21 the information as far as gender, race, age, it is
22 all being captured, also from the traffic citations
23 that we fill out.

24 That information has always been
25 available, but we've never put it into a pattern, put

1 it into a system that we could capture and look at
2 it. So the computer checks are being recorded,
3 traffic citations are being recorded for the same
4 information. We've also -- and a lot of this was due
5 to the input from the community and some training we
6 received.

7 We started something that is called
8 six-minute training. Our officers come in, they are
9 briefed for 20 minutes or so, 30 minutes before they
10 hit the street, do their tour of duty. We have now
11 put something called six-minute training where they
12 come in, they spend approximately six minutes going
13 over different scenarios. These are scenarios that
14 have been reviewed through our legal advisor, the
15 Assistant Chief's office, through our academy staff.
16 Scenarios put out through the academy covering
17 different circumstances, what-if situations, how
18 would you deal with this.

19 We have found that the training has
20 been very valuable, even though it is only five or
21 six minutes. It really brings about some stimulating
22 conversations as to what if, how do we handle this, a
23 lot of legal questions have come up.

24 So we really feel that the education
25 portion, even though they have constitutional

1 training, they have all kinds of training at the
2 academy, six minutes a day every day that they come
3 in, they work 4/10 shifts, is critical to covering
4 some of these issues. And racial profiling is just
5 one of those topics, but we deal with domestic
6 violence, traffic, constitutional issues, all kinds
7 of legal issues that we can deal with in the
8 six-minute training.

9 But that is something that we have
10 brought on board, I believe in January, and it has
11 been very effective. We're very pleased with it. It
12 is something that we are going to continue.

13 Policy development. Once we address
14 the statistical information and we truly can see
15 what's happening out there, we will set some
16 additional standards and look at what's occurring.
17 Is it because of lack of training, is it because of
18 lack of effort on the officers' part, do we have
19 racists on our agency? Are there things that we need
20 to really capture and make some significant changes
21 or is it a perception?

22 You know, I sit here and say we don't
23 have a problem in our agency, but I would be naive to
24 think that there is some issues out there in the
25 community. The community has spoken very clearly,

1 and whether it's occurring or not, whether it's
2 intentional or not, the perception is out there. And
3 so to us that is vital, that is critical, and our
4 agency is looking at this very seriously.

5 Talked a little bit about the
6 importance of training, also educated the public on
7 the avenues they can take. We feel very strongly
8 with our policing policies, with our community
9 policies, that we have to work with the community if
10 we are going to be successful to find resolution to
11 some of these critical issues. They have to be able
12 to trust their officers, and without that trust we're
13 not going to move forward.

14 So I think educating the public a
15 little bit more about what we do, what our job
16 entails, there are different avenues that we can do
17 that, whether it's public service announcements -- we
18 have a citizens police academy, we are starting a
19 teen police academy. We've had two of them. We've
20 got one starting in June so that we can deal with
21 some of our youth issues, educate some of our youth
22 on what's involved in law enforcement. What are some
23 of the legal issues, what are some of the things TPD
24 deals with, how can we get the community to work with
25 us, how can we work better with the community? So I

1 think the public education in many ways is just as
2 critical as the officer education and training.

3 Advanced officer training is something
4 we do yearly, but we have put racial profiling into
5 the training this next year for advanced officer
6 training for 2000-2001. They have made some basic
7 academy curriculum adjustments to make sure that this
8 issue is being covered, and we've actually extended
9 our training at the academy for two weeks.

10 MS. WEBB-VIGNERY: You have covered
11 your time allotment. We'll give you five more
12 minutes.

13 CHIEF ROBINSON: Okay. Really, other
14 than telling you a little bit about public awareness,
15 how we are analyzing the statistics coming in, I'll
16 open it up to questions for you, answer any questions
17 you have about our agency.

18 MR. GATTONE: I have a couple of
19 questions.

20 You've talked some about statistics. I
21 know you have a sheet there with the racial breakdown
22 of the officers. Are those materials that you can
23 provide to the Committee?

24 CHIEF ROBINSON: Certainly. The EEO
25 status for our agency -- this is current as of 4/28,

1 and although I've highlighted some areas -- yes, this
2 is something I can give you.

3 MR. GATTONE: What about statistics,
4 the racial profiling statistics, the stops, racial
5 breakdown, that's not ready to be distributed?

6 CHIEF ROBINSON: They are compiling
7 those. We are doing a six-month run. So we will not
8 analyze those, really take a strong look at those
9 until August.

10 We wanted to have six months of
11 material because of summer. Because of the trends
12 with crime, because of a lot of things that occur in
13 any community, I think one or two months isn't enough
14 to draw some strong conclusions. So in August we'll
15 have those available to the public.

16 MR. GATTONE: Unfortunately, the
17 process of us producing our report goes kinds of
18 slowly. Will you be able to or willing to submit
19 those statistics to the Regional Office in San
20 Francisco for inclusion in our report?

21 MR. MONTEZ: Los Angeles.

22 MR. GATTONE: Los Angeles. Did I say
23 San Francisco?

24 You're making your analysis in August.
25 When you are ready to release those, if you could

1 maybe direct those to our Regional Office. This
2 report will not be ready before that, so it could be
3 included.

4 Chief, I had one other question about
5 statistics, just to jump down. In the materials sent
6 out we asked some questions about the use of deadly
7 force. I realize that the department keeps records
8 about when there is a use of force deadly or
9 otherwise by the officers.

10 CHIEF ROBINSON: There are three
11 different areas that we track very closely. One is
12 the use of deadly force, whether officers actually
13 have fired their weapons. The other is when the use
14 of the flex baton is used, we document and track
15 those incidents. And then when we use OC, or pepper
16 spray, those instances are tracked.

17 I have some statistics here
18 regarding -- goes back to 1996. There were three --
19 I don't know if you want me to go through a few of
20 these.

21 MR. GATTONE: Sure. Please.

22 CHIEF ROBINSON: In 1996 deadly force
23 was -- shots were fired in three incidents, two in
24 August of '96 and one in January of -- excuse me, one
25 in October of '96.

1 Whenever we have a serious incident
2 like this where deadly force is used we have a review
3 board that looks at that incident in totality. They
4 look to see if procedures need to be changed, if the
5 officer was in violation, if there is a training
6 issue. They look at everything to see what needs to
7 be done. Could the officers have handled themselves
8 better given a different set of circumstances if you
9 had proper training. I mean, was there an issue
10 there.

11 These three were all found to be in
12 policy. The officers acted in accordance with
13 training and policy set forth by the Tucson Police
14 Department.

15 In '97 five incidents where deadly
16 force was used, where shots were fired, those were in
17 policy. I have the ethnic breakdown if you want
18 that.

19 In '96 one was a suicidal Hispanic
20 male. Deadly force was used against the other two,
21 one was a white male, and the other in October of '96
22 was an African American male.

23 In '97 five cases I spoke of where
24 deadly force was used; two Hispanic males, two white
25 males, and one listed 12/97 the race is unknown. So

1 that was not recorded for some reason.

2 In 1998 we had five cases that were in
3 policy. Two were white males, two Hispanic males,
4 one African American male.

5 In 1999 there were seven cases where
6 deadly force shots were fired by our officers. Four
7 white males, one African American male, one Hispanic
8 male. In one of those situations there was a white
9 male and female involved in that. Two of those are
10 pending, so they are still being reviewed. The other
11 four were in policy.

12 The flex baton probably isn't as
13 critical. Several of these situations dealt with
14 mental or suicidal individuals that the flex baton
15 was used on.

16 MR. GATTONE: Chief, again, are you
17 able or willing to provide those statistics to the
18 Committee?

19 CHIEF ROBINSON: I don't think that
20 will be a problem with providing these at all. I'll
21 run it through our legal advisor, should not be a
22 problem. Yes, I could do that.

23 MR. GATTONE: All those are broken down
24 by race or gender?

25 CHIEF ROBINSON: Case report broken

1 down by race, gender, disposition, as far as in
2 policy, out of policy, pending. I do not have any
3 statistics this year, 2000, on shots fired.

4 We have had a couple incidents this
5 year already. I don't have that information with me.
6 Those are still under review. I haven't seen those
7 packages.

8 MR. GATTONE: Okay. Other questions by
9 members of the Committee?

10 MS. GARCIA: Good afternoon. I have a
11 question.

12 We've heard, of course, a lot regarding
13 the shootings on Sixth Avenue, and we understand
14 Tucson Police Department will be taking particular, I
15 guess, actions the entire summer. How is the Tucson
16 Police Department prepared to balance their need for
17 high level presence on Sixth Avenue and at the same
18 time assure the community in the south part of Tucson
19 that there will not be wholesale racial profiling;
20 that there will not be, you know, violations of Civil
21 Rights?

22 Because we understand that as a society
23 we have problems and then we expect the police
24 department to solve them all, unfortunately. And
25 many times they aren't law enforcement problems, but

1 that's how they wind up exploding as a law
2 enforcement problem.

3 How is the TPD going to handle that
4 balance between respecting the community that lives
5 down there and needing to enforce the law on Sixth
6 Avenue?

7 CHIEF ROBINSON: You know, that's a
8 good question, very delicate in many ways. Because
9 if we go overboard in our talking about our
10 officers -- if we really emphasize racial profiling
11 and we put them in the state that they are afraid to
12 make contact with someone because they are of a
13 minority stature, that, you know, in that sense they
14 are not going to be investigating suspicious activity
15 and things that police officers need to look into.
16 So both with the community and with our officers we
17 are going to have to find a balance.

18 We are not going to back down on the
19 violence that is occurring with our youth on South
20 Sixth. And it's not just South Sixth. It's 12th
21 Avenue, East Speedway.

22 But for the last five years or so, at
23 least since '96, we have been very involved in safe
24 streets, and that is a metropolitan -- that is Pima
25 County working with Oro Valley, Marana, TPD, South

1 Tucson. We've tried to target areas where criminal
2 behavior is occurring. South Sixth is one of those.

3 This is not new to us. Usually we
4 start doing some stricter and stronger enforcement in
5 the spring, right around Easter when the kids are out
6 for spring break, because we feel strongly that if we
7 can nip it in the bud initially, hopefully, we can
8 save some lives and try to get the word out to our
9 community and parents, because in many regards this
10 is a parental issue. People do not know where
11 children are and what they are doing.

12 It's a balance, as you said. How are
13 we going to make sure our officers, through proper
14 training, that they are not violating constitutional
15 rights of individuals. There are so many things that
16 need to be addressed on South Sixth.

17 The main one is curfew. The kids have
18 no business being out there at 2:00, 3:00 o'clock in
19 the morning dancing in the streets, dancing from
20 vehicles, flashing gang signs, you know. I mean,
21 there is so much going on there that ethnicity, race,
22 it should not even be a factor. They are there to
23 address criminal behavior and violations of our city
24 and state ordinance.

25 So it's something our commanders are

1 going to be paying attention to. We have put
2 officers on the weekends now -- thank God, we've been
3 successful. The activity has been very low since
4 that horrendous weekend, because we have just flooded
5 the streets with officers.

6 MS. GARCIA: And will you be taking
7 measures to make sure that racially, on its face, you
8 know, you don't have racially motivated, on their
9 face, kind of enforcement, but that in effect does it
10 result in a racial kind of impact?

11 I guess my example is TPD's old
12 practice -- it's no longer in use, I understand,
13 since it was ruled unconstitutional -- of taping
14 noses of youth on the south and west sides only.
15 That was racially neutral, it wasn't targeted at one
16 race; however, it was utilized only in the minority
17 area. How do we assure that this new safe streets,
18 new program is not racially neutral, but that it's
19 not utilized in a way that really impacts only
20 minority youth?

21 CHIEF ROBINSON: I think through
22 oversight, supervision and then getting the community
23 to open up and trust that they can go to our Internal
24 Affairs division, they can go to the commanders, they
25 can go to Liana Perez, we need to make sure they are

1 comfortable enough in things that are occurring out
2 there. We have to know about them. If we don't know
3 about them, we can't address them.

4 But I think oversight and supervision
5 is what's critical. And, again, training the
6 officers, training and knowing what they can and
7 can't do. I think our officers are trained very
8 well, but -- I mean, that's something we're going to
9 have to monitor.

10 There has been a task force put
11 together that they are doing, safe streets. We can't
12 let up in that area because of the violence.

13 Unfortunately, if you go out on South
14 Sixth or South 12th, your dealing mainly with the
15 Hispanic youth. I worked on the south side for
16 years, have not been out there recently, but when you
17 go out on South Sixth -- and we have some video
18 coverage and we have some things that, you know, we
19 have been tracking and looking at, it's mainly the
20 Hispanic youth. But it's not Hispanic youth just
21 from the south side, they are coming down to Sixth
22 Avenue, coming down to 12th Avenue from all over the
23 city. There's white, Hispanic, Asian, there's
24 everything down there. But for the most part the
25 large percentage is Hispanic youth, so that is

1 something that we need to raise an awareness and make
2 sure that if someone feels they have been targeted
3 that they come forward and they let us know so we can
4 deal with that specific incident.

5 MS. GARCIA: Thank you.

6 MR. MONTEZ: I know you've talked about
7 use of force. Is your policy written?

8 CHIEF ROBINSON: Our use of force
9 policy?

10 MR. MONTEZ: Do you have a written
11 policy?

12 CHIEF ROBINSON: I don't have it with
13 me, but yes.

14 MR. MONTEZ: I mean, is it available to
15 all officers?

16 CHIEF ROBINSON: Yes, they are trained
17 in that area.

18 MR. MONTEZ: Okay. Now, when a deadly
19 shooting occurs how is your department's use of force
20 validated, by the officer's written report or other
21 investigation?

22 CHIEF ROBINSON: No. There is a board
23 that is put together, interviews are done with all
24 parties involved that Internal Affairs does, puts
25 together the package. Depending on the

1 circumstances, statements are taken from witnesses,
2 from all the individuals involved, from other
3 officers involved, there are all -- the written
4 report is looked at. If it's a situation that is,
5 you know, run through the courts, of course, that
6 whole process is looked at, everything is compiled.

7 MR. MONTEZ: Does it then end up in the
8 hands of the district attorney?

9 CHIEF ROBINSON: It depends, sir, if
10 there's been criminal allegations or criminal
11 wrongdoing done by our officers, it will end up with
12 the County Attorney's office, or felony if that is
13 the case.

14 But, yes, once we review it and if we
15 find there is criminal misconduct on the part of the
16 officer, it is always reviewed by that jurisdiction,
17 whether it's City Court if it's a misdemeanor or the
18 County Attorney's office. If it's a hate crime or
19 something that the FBI may get -- take an interest
20 in, then it would go to them.

21 But, yes, it is reviewed internally.
22 It is taken to the County Attorney in most cases,
23 they review it, and then they make a finding on it.
24 Then we look at procedural violations.

25 MR. MONTEZ: Thank you.

1 MR. GATTONE: Richard.

2 MR. ZAZUETA: You talked about how you
3 handle citizens. How do you handle -- how do you
4 work with noncitizens or, more specifically,
5 undocumented, and what's your policy with INS?

6 CHIEF ROBINSON: If someone wants to
7 come forward that is an illegal, that is an
8 undocumented citizen, we are still going to take
9 their complaint, we're going to address their issues.
10 We have a good working relationship with INS Border
11 Patrol. It is certainly going to be reported to
12 them.

13 It depends if it's critical or not.
14 You know, I really don't know. Liana may be able to
15 handle that question, our auditor may be able to
16 answer that question better.

17 I haven't really dealt with that issue,
18 having someone come forward to file an Internal
19 Affairs complaint where they state to you that, you
20 know, I'm here undocumented, I shouldn't be here.
21 That is not something we pursue with them. We do not
22 ask to see their papers, we do not ask if they are
23 citizens.

24 If it turns up -- it comes up during
25 the investigation, then it's going to be addressed,

1 but that's not something we are interested in. We
2 are interested in what the allegations are, have our
3 officers conducted themselves professionally within
4 policy. So unless someone were just to come up to us
5 and say, I don't know if I have a right to make this
6 complaint because I'm an illegal, I'm not here
7 legally, that's not really something we have
8 addressed.

9 MR. ZAZUETA: Chief Robinson, I'm just
10 talking about an ordinary traffic stop or something
11 like that and you find out that the person doesn't
12 have a license or is not a citizen or whatever.

13 CHIEF ROBINSON: Contact will be made
14 with Border Patrol.

15 MR. ZAZUETA: Do you report to INS?

16 CHIEF ROBINSON: To Border Patrol.
17 Border Patrol many times will come out and they
18 will -- if there's criminal wrongdoing and the
19 individual is going to be cited or held at our jail,
20 Border Patrol many times will transport them, deal
21 with their paperwork. Many times they will follow up
22 at the jail.

23 MR. ZAZUETA: Do you have a policy of
24 how you interact with INS, do you have a set written
25 policy?

1 CHIEF ROBINSON: No, sir, not that I'm
2 aware of. It's no different than dealing with any
3 other criminal law enforcement agency.

4 I'm not really sure what you're asking.
5 We don't separate how do you deal with DPS, how do
6 you deal with INS, how do you deal with Border
7 Patrol. We're professional with all of them. But
8 there's no set standard for -- we don't deal with INS
9 any differently than anyone else.

10 MR. ZAZUETA: What I'm getting at is
11 throughout the country, especially in these border
12 states, some of the police have been reporting
13 undocumented to the INS. Have you been doing that?

14 CHIEF ROBINSON: We report it directly
15 to Border Patrol.

16 MR. ZAZUETA: Border Patrol?

17 CHIEF ROBINSON: Yes. I'm not sure how
18 INS agents -- they deal with some other issues. We
19 deal mainly with the Border Patrol. If we come
20 across a group on the tracks someplace where they
21 come across individuals that are illegal, that are
22 not legally here that have been involved in criminal
23 misconduct, we take care of the misconduct aspect of
24 it and Border Patrol is notified.

25 Many times they will come out to the

1 scene and deal with their issues there and transport
2 and get them back across the border, or they will
3 follow up at the jail if we have taken them to jail.

4 MR. ZAZUETA: There's no policy how you
5 do this?

6 CHIEF ROBINSON: No. We go through our
7 communications division. They contact Border Patrol,
8 Border Patrol will advise us whether they can respond
9 or not.

10 MR. ZAZUETA: Thank you.

11 MR. PAZ: Just to clarify, you only
12 call the Border Patrol when a violation has occurred
13 or when there is need for you to intervene or address
14 somebody?

15 CHIEF ROBINSON: Right. If we have
16 been called to a situation through 911 or they come
17 across something, on-site activity, they come across
18 individuals that are not legally here, then, yes,
19 they would contact Border Patrol.

20 Are they mandated? No, they are not,
21 they have some discretion there. But certainly if
22 they are in violation of city ordinances of criminal
23 code --

24 I'll give you an example. I used to
25 work quite a bit at Dillard's, working off duty,

1 shoplifting offenses, huge numbers of shoplifters.
2 Many times we would come across youth, teenagers,
3 young adults that were here illegally, and they come
4 up strictly for that purpose. Border Patrol would
5 meet us at Dillard's, they would do the transport, we
6 would fill out all our paperwork and then Border
7 Patrol will transport them and make arrangements to
8 get them back across the border.

9 Usually it's because of criminal
10 misconduct that they come into contact.

11 MS. GARCIA KIM: Thank you, Mr.
12 Chairman.

13 Chief Robinson, thank you very much for
14 coming out and addressing the Committee and taking
15 some time to clarify some of the positions for us.

16 I had two points, two questions,
17 actually, to ask just for clarification.

18 The statistics you gave at the
19 beginning with the ethnic breakdown and mirroring the
20 community --

21 CHIEF ROBINSON: Yes.

22 MS. GARCIA KIM: -- those were for
23 total employees or just police officers?

24 CHIEF ROBINSON: That is total
25 employees.

1 MS. GARCIA KIM: The information you
2 provide to us, will that provide information just on
3 the number of police officers by ethnic background?

4 CHIEF ROBINSON: Actually, it is broken
5 down for you; female, male, captain, Chief of Police,
6 civilians, detectives, lieutenants, officers,
7 reserves, Sergeants, those in training, civilians,
8 everything is here for you.

9 MS. GARCIA KIM: By ethnic background?

10 CHIEF ROBINSON: Yes.

11 MS. GARCIA KIM: The reason I'd like to
12 know that is I think it's more relevant to know the
13 number of police officers by ethnic background,
14 especially the ones that are on the streets.

15 For the purposes of what we're talking
16 about it doesn't do any good if you have 18 Asian
17 employees and they are all in the office. It's more
18 relevant for us to know how many of those Asian
19 employees are actually police officers on the street;
20 so if you can provide that information.

21 CHIEF ROBINSON: That breakdown is
22 here. I would be happy to give that to you.

23 MS. GARCIA KIM: Okay. The other
24 thing, you talked about training, you talked about
25 advance training for police officers, and you talked

1 about changes in curriculum and those sorts of
2 things. Is that training at the Arizona Law
3 Enforcement Academy or is that training that the city
4 does for their police officers?

5 CHIEF ROBINSON: No, it's the Public
6 Safety Academy, the new academy, that is the regional
7 academy out on South Wilmot. They have extended the
8 time frame that the officers actually go through
9 their training.

10 MS. GARCIA KIM: Okay. And the changes
11 in the curriculum are there. Does the City of Tucson
12 do any sort of training?

13 CHIEF ROBINSON: Yeah, I believe they
14 have -- I could be wrong on the time limit. There's
15 a five or six week -- when they get done with the
16 state training there's a five or six week academy for
17 the TPD officers to learn about the City of Tucson,
18 the streets, geography, the city ordinances, things
19 that apply just locally here.

20 And I can't tell you for sure whether
21 they have made any modifications in the curriculum
22 because I haven't seen it, but that's something I can
23 find out for you.

24 MS. GARCIA KIM: Just wanted to ask one
25 more question, one more time for my clarification.

1 When a City of Tucson police officer --
2 I'm not quite sure how to ask this -- but would a
3 City of Tucson police officer only report a person to
4 the Border Patrol if there's been a criminal
5 violation or are they -- is the Tucson police officer
6 reporting them even when they have not violated any
7 State of Arizona laws or city ordinances?

8 CHIEF ROBINSON: There is some
9 discretion there, but if they come across a group --
10 let's say Catalina Park, we are doing a detail at
11 Catalina Park, come across three individuals that
12 just happened to be at the park, they are there
13 because of the narcotics situation going on within
14 the park. While they are there they come across
15 three individuals that are here illegally, they are
16 going to address those issues if they have the
17 manpower and the personnel to do that, and then they
18 would contact Border Patrol.

19 MS. GARCIA KIM: Even if those
20 individuals have not broken any laws, they might be
21 reported to Border Patrol?

22 CHIEF ROBINSON: Yes, Border Patrol may
23 be called and asked to come out, respond, because we
24 have three illegals.

25 MS. GARCIA KIM: Thank you.

1 MS. GARCIA: They are doing immigration
2 questioning then?

3 CHIEF ROBINSON: I don't know how you
4 would phrase immigration questioning, but they may
5 have reason to ask for identification, and if through
6 their questioning they find out that they are not
7 here legally, then they will take action.

8 MS. GARCIA: So this -- then they are
9 involved in immigration enforcement type of
10 interrogation. That's what it sounds like to me. If
11 they are not violating any other law and they do
12 engage in that kind of questioning, that's
13 immigration questioning.

14 CHIEF ROBINSON: Okay. You're pretty
15 harsh in the way you phrase that, but, yes, they are
16 going to ask -- if they have reason to make a
17 contact, if they have reasonable suspicion while they
18 are investigating the narcotics activity, whatever is
19 occurring, and there's a group of individuals there
20 and they ask for identification and they learn
21 through their questioning that they are not here
22 legally, then, yes, Border Patrol could be contacted.

23 MR. GATTONE: Mr. Pena, you have a
24 question?

25 MR. PENA: Chief Robinson, in 1997

1 there were 245 -- 44 white youths in custody in
2 Maricopa and Pima Counties, at the same time 975
3 black youths, 515 Latinos, 214 Native American
4 youths, and 74 Asian youths were in jail. Black
5 youths at that time made 3.38 percent, less than
6 four percent of the general population, and the
7 Hispanic or Latinos were 38 percent of the
8 population. I don't have figures for '98 or '99, but
9 I'm assuming that they must be pretty close.

10 My question is, as it relates to Pima
11 County, because these figures are Maricopa and Pima
12 County, why the disparity?

13 CHIEF ROBINSON: I don't have the
14 statistics as you do for Pima County, so I don't know
15 if there's similar -- I really can't answer your
16 question. I can tell you that I believe it's six
17 percent -- I mean, our Hispanics are killing
18 Hispanics, our black African Americans are killing
19 black African Americans. There's numerous trends out
20 there that are alarming and concerning both ethnicity
21 and socioeconomics.

22 I don't have an answer for you, sir. I
23 don't have the status for Pima County, but it would
24 be very interesting to look at those.

25 MR. PENA: On the surface it appears to

1 me that there is some racial profiling for that kind
2 of a disparity.

3 You talked about training and racial
4 profiling. Is it an ongoing program? This is 1997.

5 CHIEF ROBINSON: Racial profiling is
6 not new. These are all constitutional issues.

7 And the training is there for the
8 officers. It is a very critical part of their
9 training in becoming peace officers in the State of
10 Arizona.

11 You know, you're giving statistics of
12 people that are incarcerated, so criminal activity
13 has occurred. There's so many different things that
14 need to be thrown into this other than race. It's a
15 very difficult question, but it is alarming. I
16 agree, the numbers are not pretty.

17 MR. GATTONE: Rudy.

18 MR. GARCIA: Chief Robinson, Mr.
19 Chairman, as the demographic in the department,
20 number of employees, ethnicity of the department,
21 employees you have in your department, do you have as
22 a department an objective to try to reach some type
23 of balance or equalization to the community in which
24 your department provides law enforcement to, again,
25 meet the same general demographic of the community?

1 CHIEF ROBINSON: Yes, that is why I
2 gave you those statistics. I mean, that is something
3 we are always trying to attain.

4 We are low in some areas. A lot of
5 that has to do with recruiting issues and getting
6 people on board. But, yes, that is something that is
7 important to us.

8 MR. GARCIA: Can you describe or
9 explain some of the programs that you do have in
10 place to actually reach out to the minority community
11 for recruitment?

12 CHIEF ROBINSON: I never worked in
13 recruiting, so I can't tell you. Although they are
14 going not just here locally in Arizona, they are now
15 reaching out to El Paso and other cities in the
16 recruiting efforts.

17 I would have to ask recruiting
18 specifically what they are doing to pull minorities
19 into it. I know they are going to the high schools,
20 going to the community colleges, they are doing
21 seminars, any time we have a community function,
22 whether it's any type of event, they are setting up
23 booths, targeting, trying to get the recruiting
24 numbers up.

25 Law enforcement agencies all over the

1 country are having a lot of difficulty right now in
2 hiring law enforcement officers. People do not want
3 to go into this profession.

4 MR. GARCIA: Would you agree,
5 despite -- although the training, that obviously is
6 helpful in some way, regarding racial profiling, that
7 in addition to that having to balance or equal
8 demographics within your department of the community
9 it serves would help also reduce the likelihood of
10 racial profiling or, in the case mentioned earlier,
11 acquiring statistics or gathering information on
12 those that feel they have been racially profiled,
13 that they would come forward much easier had they
14 been dealing with a minority officer, so to speak, or
15 of their same ethnicity that they felt more confident
16 in going to?

17 CHIEF ROBINSON: Also need to look at
18 the second language requirements, not just Hispanic,
19 not just Spanish, but there are other needs out
20 there, too, sign language, all kinds of issues that
21 we need officers to be trained in.

22 MR. GARCIA: Thank you.

23 MS. WEBB-VIGNERY: Chief Robinson, I
24 heard you discuss if you stop someone in the park and
25 it's a drug-related offense, then you would question

1 other people who were in that approximate vicinity,
2 and I was wondering, does this same type of activity
3 take place in an airport or a bus station or other
4 areas where people are coming and going in Tucson and
5 Pima County?

6 CHIEF ROBINSON: Certainly. If there
7 is a group of people -- and it doesn't matter if it's
8 at a park, Sixth and Elm, they are going to question
9 those people that were involved in that activity or
10 that may have witnessed that activity.

11 MS. WEBB-VIGNERY: It has to be a
12 witness or involvement, it doesn't include a sweep
13 around the airport or --

14 CHIEF ROBINSON: We don't have any --
15 ever do anything at the airport because the Tucson
16 Airport Authority has that jurisdiction. We don't
17 find ourself in that type of circumstances.

18 But schools -- I mean if there's
19 criminal activity occurring, then they are going to
20 question those around them that were involved,
21 perhaps witnessed. If they have reasonable suspicion
22 or feel that those individuals were witnesses in that
23 situation, they are going to talk to them, yes.

24 MS. WEBB-VIGNERY: And ask for
25 identification?

1 CHIEF ROBINSON: They may not ask for
2 identification from witnesses unless they actually
3 can verify that they saw something, that they are
4 going to be pertinent and may need to be called. If
5 they saw something and they can articulate that, yes,
6 that information is going to be documented so that
7 followup can be done if there's a court proceeding,
8 attorney interviews, whatnot.

9 MS. WEBB-VIGNERY: My other question
10 was in regard to youth on South Sixth and South 12th.
11 Has there been youth input into any procedures or
12 different ways that you are dealing with youth in the
13 area, or is this something that's come from above?

14 CHIEF ROBINSON: Yes. In the past we
15 have youth that sit on the Chief Steering Committee
16 made up of community business, community residents.
17 We have a couple of youth involved in that. There is
18 also recently pulled together a committee -- I don't
19 know the exact status of it, but I know we talked
20 about it, Mayor and Council meeting several weeks ago
21 of pulling in a group of youth to deal with the high
22 school issues and the cruising, so we can have some
23 input from them on what their needs are, what their
24 perceptions are, and not only to learn about their
25 needs, but to do some education there both on our

1 part, potentially those already that are a little bit
2 older, maybe don't have teenagers, and vice versa,
3 educate them a little bit so they can spread the word
4 about the dangers, how to handle it so they can get
5 home safely at night.

6 MS. WEBB-VIGNERY: Thank you.

7 MR. GATTONE: Chief, I just have two
8 quick things. One, we didn't have a real chance to
9 talk about the review mechanisms. I think we will do
10 that with Miss Perez.

11 Do you have any statistics available on
12 the number of complaints in a year, and do you keep
13 racial and gender, national origin breakdowns on
14 those?

15 CHIEF ROBINSON: Liana and I both
16 brought statistics. I'll let her cover that. She
17 knows Internal Affairs inside and out, unless you're
18 going to feed me dinner here pretty soon, Paul.

19 MR. GATTONE: Someone can provide those
20 statistics?

21 CHIEF ROBINSON: Yes, we both have
22 those, can provide those.

23 MR. GATTONE: One last question. Who
24 is on the shooting board? You say after there is a
25 deadly force incident there's a shooting board.

1 CHIEF ROBINSON: When there is an
2 incident that occurs a shooting board is pulled
3 together. There is a captain and two lieutenants,
4 that the captain chairs that board and the two
5 lieutenants oversee that. They are called out to the
6 scene, just as our legal advisor. If someone -- if
7 deadly force has been used, then the County Attorney,
8 council members, these people are all called out to
9 the scene so that we can take a look at that incident
10 to get a look at the dynamics, the structures, what's
11 involved. So then after all the information is
12 compiled, after the criminal aspect is taken care of,
13 the statements and everything is done for the
14 shooting board, then they actually hold the board and
15 question those individuals that they have questions
16 for.

17 If things are not clear in the reports
18 or from all the documentation, then they will
19 actually do a board. Witnesses, officers come in and
20 they will clarify things for them.

21 But, yeah, the board itself is made
22 up -- there's a captain, two lieutenants. Shooting
23 response team involves -- our homicide detail will
24 come out if there is an officer at the shooting,
25 homicide detail, those detectives -- that supervisor

1 responds to that scene to do the investigation.

2 MR. GATTONE: There are no community
3 members on this shooting board, they are all kind of
4 in-house?

5 CHIEF ROBINSON: When -- the package
6 that is put together, that is given to both the City
7 Attorney and to the council member whose ward the
8 incident occurred in; so they are invited to review
9 that. But, no, there's not a citizen participant in
10 that. This is internal only.

11 MR. GATTONE: Any other questions from
12 the Committee?

13 Chief, we appreciate your time and your
14 participation. We have kept you over, but we
15 appreciate it.

16 CHIEF ROBINSON: Thank you.

17 MS. WEBB-VIGNERY: For the record, I
18 would like to say that Sheriff Clarence Dupnik was
19 contacted for this hearing and we did not receive a
20 response from him, and he will not be here or a
21 representative from the Sheriff's Office.

22 MR. GATTONE: Actually, some
23 clarification.

24 Dupnik was contacted and his office
25 affirmatively said they would not be coming out; so

1 he declined to come.

2 Our next speaker, Pam Sutherland.

3 We apologize to everyone for going
4 over. In fact, TPD was the only law enforcement
5 agency to accept our invitation. We had a lot of
6 questions.

7 Could you state your name for us,
8 please?

9 MS. SUTHERLAND: Pam Sutherland, board
10 member of the Arizona Civil Liberties Union and
11 cooperating attorney with them.

12 And I am prepared to testify about
13 racial profiling. I also was a member of the Racial
14 Profiling Task Force that she -- Chief Robinson spoke
15 of.

16 MR. GATTONE: Please.

17 MS. SUTHERLAND: Okay. A local church,
18 starting about two years ago, decided to focus on
19 race relations as its point of focus. So in November
20 of 1999 they held an open hearing at St. Mark's
21 Church on racial profiling.

22 Prior to that there was an article in
23 the Daily Star that detailed harassment of an African
24 American couple. I brought a copy of the article if
25 you want to have it. It details what occurs with

1 her. Basically, her family was repeatedly stopped
2 when driving their new car, asked by the Tucson
3 Police Department, is this your car. No other reason
4 was given for a couple of different traffic stops
5 that this family was subjected to.

6 The history, as I understand it in
7 Tucson, as Attorney Garcia referenced earlier, is a
8 1993 case, the Superior Court Judge threw out some
9 cases where the TPD was going into predominantly
10 Hispanic areas and checking for cocaine use by
11 putting tape under people's noses. This was thrown
12 out for being a violation of Civil Rights.

13 At the November hearing, about 200
14 people, there were a variety of stories of different
15 random stops, and many of them were what I would call
16 harassment rather than evidence of racial profiling,
17 necessarily. African American people, Hispanic
18 people, in particular there were young Hispanic men
19 who were complaining of -- in their community being
20 singled out for being stopped on South Sixth Avenue,
21 basically just harassed by the police. I think that
22 this will be spoken of later.

23 I noticed you have the director from
24 Derechos Humanos, which is the organizing group for a
25 lot of the community action that's been taken down

1 there.

2 In the November meeting Police Chief
3 Miranda, first of all, professed to not knowing about
4 these incidents. Second of all, he stated that this
5 was not anything that the police department condoned,
6 this was not behavior that was acceptable in his
7 police department. He was very clear that he
8 believes in community-based policing, which is
9 dependent on trust. That sort of formed his whole
10 philosophy about how to work with us.

11 From there on out the police department
12 undertook to engage in what really wound up being
13 very meaningful dialogue with the citizens group.
14 Our Citizens Committee was open to anyone's
15 participation. We met on numerous occasions between
16 December of '99 and March 1st, 2000 with the police,
17 without the police. Captain John Levitt was very
18 helpful.

19 As a result of the hearing we thought
20 there were four different pieces the police
21 department needed to address. The first was there
22 didn't appear to be a clear definition of what was
23 racial profiling. So we actually put together a
24 packet, the first part of it is the definition that
25 we came up with for racial profiling.

1 Any reliance by the police on race or
2 ethnicity as a factor in deciding whether to stop,
3 question, search or arrest a person constitutes
4 prohibited racial profiling unless race or ethnicity
5 is part of an identification, description of that
6 specific subject. This is a definition that
7 ultimately the police came to accept as a definition
8 TPD has for prohibited racial profiling. So that was
9 one piece that we worked on.

10 With regard to the definition we were
11 concerned about pretextual stops. The Supreme Court
12 ruled pretextual stops are not unconstitutional. We
13 wanted the police to not be doing that. We sort of
14 went back and forth on that and we agreed upon the
15 definition of racial profiling does not rely on any
16 kind of pretextual stop.

17 The second piece that we discussed was
18 the issue of data collection. The ACLU nationally
19 has made racial profiling one of its top issues, has
20 done a number of cases that have been well publicized
21 across the country requiring police departments to
22 compile data.

23 Miranda professed to not knowing
24 whether racial profiling was occurring. One of the
25 most remarkable things to me at least is that he then

1 accepted that we need to study it. And, actually,
2 when we met in November, he said that he had been
3 talking about studying it and had spoken to people to
4 start pulling together the computer programs
5 necessary for five months prior to that.

6 Again, we met repeatedly, worked out
7 what the different pieces of hardware TPD has access
8 to, what would actually work to be an effective way
9 for them to be collecting data on the races of the
10 various people that they were stopping. It turns out
11 that their computer system already has programmed
12 into it a slot for race, so they didn't have to go
13 through any additional, huge expense.

14 What police officers were routinely
15 doing is just skipping over that category. Beginning
16 on February 14th Captain Levitt told me -- it's my
17 understanding that beginning February 14th they did
18 something with their computer system which required
19 that the race category be filled in, otherwise the
20 police officers would not be able to get information
21 back from the system.

22 So when a police officer stops somebody
23 and either used the laptop computer in their car or
24 phoned in dispatch, they were required to state the
25 suspect or the stopped person's race in order to find

1 out whether there were outstanding warrants or any
2 other information. So beginning February 14th the
3 data was starting to be captured.

4 Another thing that's interesting, TPD
5 attempted, I understand, to get the Arizona Police to
6 do the same thing. The Arizona Police declined. So
7 this is an exclusively TPD thing. Again, expecting
8 to see that data in six months.

9 The third piece, we thought it was
10 important they address the issue of training. We
11 reviewed all their training materials. They actually
12 did not have anything specifically addressing racial
13 profiling. We talked about that, received the
14 agreement from the police department that issues of
15 race and the discussion of racial profiling be
16 prohibited, would be incorporated into the six
17 minutes' training that occurs every day with police
18 officers, also incorporated into the advanced officer
19 training. Already heard about this part.

20 What Levitt and Miranda thought was
21 that the issue was going to be with the police to
22 encourage their officers -- to work with their
23 officers to help them understand simply stopping
24 people on the basis of race was not a more expedient
25 way to be finding suspects to crimes. That was what

1 the barrier was that they were addressing, and that
2 was what they were going to be approaching their
3 officers working on with the training.

4 The fourth piece, figuring out a way
5 for the police to be more accessible to the
6 community, for the community to have a greater
7 understanding that the police have limits on what
8 they can do.

9 So we reviewed their web site. Changes
10 already have been made to the web site.

11 On the issue of filing complaints,
12 there are about four different ways that you can file
13 complaints with the police department. You can also
14 file something with the ACLU, which will then work on
15 it. And we talked about the variety of different
16 public outreach opportunities that the police
17 department has. The TV show, they have a weekly city
18 page, there's a brochure that they distribute all
19 over town.

20 And the police committed to increasing
21 the number of complaints they received. I understand
22 that in 1998 there were only 1,200 complaints
23 received. So they would like to be receiving more
24 complaints and be more receptive to what the citizens
25 have to say.

1 March 1st was our follow-up meeting.
2 There was no additional testimony taken at that time.
3 About 75 people showed up and talked about other
4 issues of racism that the police department had
5 perpetrated on them. Again, the police addressed
6 these, and it worked within the structure that we
7 were discussing.

8 The status is currently to meet again
9 sometime in June for a status check on where the
10 police are with this, all this material. I would be
11 glad to forward it to you.

12 I'll just give it to your office, Paul,
13 you can --

14 MR. GATTONE: Or if you could give
15 it -- do you have it with you today?

16 MS. SUTHERLAND: What?

17 MR. GATTONE: The material.

18 MS. SUTHERLAND: We won't get it till
19 June.

20 MR. GATTONE: If you could send it
21 directly to the L.A. office, and either Phil or Art
22 can give you the address. That would be great,
23 because, again, our report won't be produced for some
24 months.

25 MS. SUTHERLAND: Okay. Basically we've

1 taken a wait and see attitude.

2 Thus far it's been our impression the
3 TPD has been addressing racial profiling in very good
4 faith, and we're looking forward to seeing how this
5 continues to go.

6 That's my input.

7 MR. GATTONE: Questions from the
8 Committee?

9 Richard.

10 MR. ZAZUETA: On the issue of reporting
11 to the Border Patrol, has this come up here in
12 Tucson?

13 MS. SUTHERLAND: This is another piece,
14 okay, talking about racial profiling of -- the issue
15 of the Border Patrol.

16 We have not, as the ACLU, received a
17 large number of complaints about that. I think
18 that's because we don't have a very big presence in
19 Southern Arizona. And I think probably the folks
20 from Derecho Humanos will be able to address that
21 some more.

22 We received some complaints. That
23 certainly is a topic that we are interested in
24 following up and addressing as well.

25 MR. GATTONE: I had a couple of

1 questions.

2 You were talking about as of
3 February 14th of this year when a stop is made an
4 officer would then, obviously, be documenting the
5 stop.

6 MS. SUTHERLAND: Correct. That's what
7 I was told.

8 MR. GATTONE: This is somehow in the
9 computer system. I guess I'm a little unsure. It's
10 not if they are issuing a citation, it's just they
11 are making a stop for whatever reason?

12 MS. SUTHERLAND: Right. We wanted to
13 capture everybody who they stopped, whether it was a
14 legitimate stop or not, whether it resulted in a
15 citation or not. So that was why the agreement was
16 made that when the contact went into the police
17 headquarters about was this person -- is there an
18 outstanding arrest, at that point that was the data
19 we were going to be collecting.

20 Obviously, it's not going to stop -- we
21 talked a lot about how we were going to be able to
22 track whether people were -- police officers were
23 just simply harassing citizens on the street without
24 phoning anything in. And, again, it appeared that --
25 you can certainly talk to the police, we have that

1 encompassed in our training idea.

2 And then, secondly, people have to not
3 be afraid to complain, or they need to understand
4 what different avenues for complaints they have.

5 MR. GATTONE: I guess the concern that
6 I have, we would only know the racial statistics, the
7 race of the person stopped if the officer indeed
8 documents the stop.

9 MS. SUTHERLAND: Correct.

10 MR. GATTONE: Do you know if there's
11 any requirement that every stop be documented?

12 MS. SUTHERLAND: I don't know.

13 MR. GATTONE: That didn't come in the
14 discussions?

15 MS. SUTHERLAND: My impression was that
16 it was their standard policy to phone in the person;
17 so, therefore, that was the documentation piece that
18 occurred.

19 MR. GATTONE: So you have someone
20 stopped for some sort of traffic violation, they
21 would call in their name to see if there's a warrant,
22 or check registration, whatever?

23 MS. SUTHERLAND: I'm sure Chief
24 Robinson could answer that.

25 CHIEF ROBINSON: I would be happy to.

1 It really is an officer safety issue.
2 Any time an officer -- whether it's a traffic stop or
3 just gets out of his patrol car to make contact with
4 someone, that location and that contact is recorded.
5 They call that in. I mean, that is just instilled in
6 our officers from day one.

7 It really comes down to an officer
8 safety issue.

9 MR. GATTONE: I guess what I'm trying
10 to get to, I understand the officers' going to call
11 in and say, I have a vehicle stop at, you know, Sixth
12 and whatever, but the question was, in order to have
13 some meaningful statistics is there a requirement
14 that every stop -- I realize there's a requirement
15 that they call in, but there's really no formal
16 requirement for every stop being documented?

17 CHIEF ROBINSON: No. If they do any
18 type of check, then, yes, it's going to be captured
19 and documented. If an officer makes a stop, makes
20 contact with, say, a traffic stop, makes contact with
21 a driver to tell him his taillight's out, maybe your
22 left tire's low, whatever, but there's nothing wrong
23 there, he may not document that. He may have had a
24 conversation with them and that may not be
25 documented.

1 MR. GATTONE: Okay. So the other
2 issue, if they stop and issue a citation, would race
3 and the ethnicity of that person be documented?

4 CHIEF ROBINSON: Once they call in --
5 it's really not through headquarters, through 911,
6 through the dispatch, once they check out at a
7 location, Sixth and Ajo, they give a plate, once that
8 occurs -- albeit the way I believe the computer
9 system is set up, they are designated on a check out,
10 and you cannot -- a mask comes up on the computer, it
11 will not release the officers, they cannot move on to
12 the next thing until that mask is properly filled out
13 and cleared. And that is the race, the age --

14 MR. GATTONE: That is only if the
15 officer takes some action, issues a citation, calls
16 in?

17 CHIEF ROBINSON: Yeah.

18 MR. GATTONE: I guess I'm trying to
19 determine there might be a hole in the statistics if
20 an officer just stops someone and -- as you said, to
21 check the taillight, something turns out they don't
22 issue a citation, in those instances we wouldn't have
23 any documentation of the race of the person?

24 CHIEF ROBINSON: No.

25 MR. GATTONE: There could be a

1 significantly higher number of people being stopped,
2 we don't have any statistics.

3 MS. SUTHERLAND: Other than that, as
4 Chief Robinson was saying, other than checking for
5 safety reasons, I guess it was my impression that
6 they frequently do just phone in and say, I'm pulling
7 somebody over.

8 CHIEF ROBINSON: Any time we stop.

9 MS. SUTHERLAND: So I guess your
10 question would be, somebody who is disregarding the
11 departmental policy to say where they are --

12 MR. GATTONE: No. What I'm asking
13 is -- I understand, that makes sense, an officer
14 stops someone, they call in and say, I got a car
15 stopped, of course, there's an issue of officer
16 safety.

17 What I'm saying, racial profiling, as I
18 understand it -- let's say as the community perceives
19 it, is the officer driving down the street, they see
20 a person, maybe a person of certain color, certain
21 vehicle, they stop that person, check them out, okay,
22 they let them go. Technically, that is racial
23 profiling if somehow in their mind race -- but in
24 those circumstances my understanding is there would
25 be no documentation of that stop because no citation

1 was issued. So, technically, an officer could do a
2 hundred of those a day, we would have no record.

3 CHIEF ROBINSON: There could be. But
4 we have performance standards, we have officers that
5 have objectives. They need to be out there and
6 earning their pay. So if they are doing that all
7 day, not documenting, their activity is going to be
8 blank, then there's going to be a performance issue,
9 what are you doing out there. If we have an officer
10 really trying to harass or is a racist or we have
11 someone out there that is a rogue cop and they are
12 not following procedures, hopefully there's going to
13 be red flags in other areas that that supervisor is
14 going to be able to address.

15 Any time there is an infraction and
16 they make a traffic stop, they are going to call in
17 the plate, they are going to call in the location,
18 they are going to check out that driver to make sure
19 they have a driver's license, proof of insurance and
20 registration. Those are the first three questions we
21 ask. We ask to see your license, registration, proof
22 of insurance. As soon as they do that, they run to
23 make sure that individual that they have had contact
24 with does not have any warrants, as soon as they do
25 that, then that material is captured.

1 MR. GATTONE: Don't you think if what
2 we're trying to do -- I realize you say you look at
3 the performance standards of the officers. Wouldn't
4 it be an added level of safety about racial profiling
5 if every stop had to be documented? I stop somebody,
6 I don't give them a ticket for whatever reason, but
7 shouldn't there still be some department policy
8 requiring documentation of every stop an officer
9 makes, whether any action is taken or not? That way
10 I would know -- I mean, it would be a --

11 CHIEF ROBINSON: Do we have to document
12 three passengers and the kid in the car seat and -- I
13 mean, are you just dealing with the driver here? I
14 mean, there are some issues there that, yeah --

15 MR. GATTONE: All right. Thank you.

16 CHIEF ROBINSON: But it's a good point.
17 I mean, one of the questions clearly needs to be
18 whether there's been a comparison done of the
19 performance records with the policy.

20 MR. GATTONE: Any other questions from
21 the Committee?

22 MR. ZAZUETA: Just thought of
23 something.

24 Have you ever studied to see if why
25 policemen stop minorities more than -- minorities stop

1 minorities, minority police stop other minorities,
2 has there ever been such a study?

3 CHIEF ROBINSON: I'm unaware of whether
4 there's been such a study, whether nonminority cops
5 stop more frequently than minority cops do. It's
6 been my impression through the different cases that I
7 have read that there hasn't been much of a
8 distinguishing situation, because they are sort of a
9 cop culture, and that is what is being addressed with
10 the racial profiling issue.

11 MR. ZAZUETA: Thank you.

12 CHIEF ROBINSON: There's plenty of
13 stuff about how it turns into a self-fulfilling
14 prophecy. Famous case in Maryland where they tracked
15 the number of drivers with traffic violations versus
16 the number of drivers who were actually being pulled
17 over by their race, and the statistics were really
18 fairly remarkable. It was something like 30 percent
19 of the drivers were African American, but they were
20 60 percent of the drivers that were being stopped.
21 And if you are checking 60 percent of 30 percent,
22 you're getting a higher number of arrests. And then
23 comparing to -- the white drivers were like 70
24 percent, they were only being pulled over 20 percent
25 of the time, so there was a correspondingly lower

1 number.

2 So the police were saying, see, this is
3 why we need to pull over African American drivers.
4 It's more likely that they have committed a crime.
5 So it becomes a self-fulfilling prophecy when you
6 distort statistics like that.

7 Thank you very much.

8 MS. WEBB-VIGNERY: Thank you.

9 MR. GATTONE: There were materials
10 there that we distributed to the Committee or to be
11 attached to our report. I think they are right there
12 at the end of the table.

13 We have now our next speaker -- I guess
14 we were going to have two speakers together. Liana,
15 you and Miss Wilber were going to talk at the same
16 time. Please come up.

17 I apologize to all the speakers. We're
18 a little bit behind here.

19 I was pointed out by the Chair I fell
20 into my cross-examination mode with Chief Robinson.
21 It's a habit. Sorry, Chief.

22 CHIEF ROBINSON: That's all right.

23 MR. GATTONE: Please identify yourself
24 for the record.

25 MS. PEREZ: Liana Perez, Independent

1 Police Auditor for the City of Tucson.

2 MR. GATTONE: Who are you joined by?

3 MS. WILBER: I'm Ida Wilber. I am the
4 Chairperson of the Citizen's Police Advisory Review
5 Board, known as CPARB.

6 MR. GATTONE: You have some materials?

7 MS. PEREZ: Would you like me to pass
8 them out ahead of time?

9 MR. GATTONE: Go ahead with your
10 remarks.

11 MS. PEREZ: I think Ms. Sutherland did
12 a very good job of discussing what has been done so
13 far in the community with respect to the community
14 concerns of racial profiling and how the police
15 department pretty much worked with the community
16 groups, particularly the one Miss Sutherland is
17 involved in.

18 I would like to, in light of not being
19 repetitive, to kind of give you a little bit of an
20 overview of what my office does, to talk a little bit
21 more about the review mechanisms within the City of
22 Tucson, and allow you to ask questions in that
23 respect. Of course, if there are any other questions
24 specific to the racial profiling issue, I'll be happy
25 to answer those as well.

1 As I stated, I'm the -- my title, I'm
2 the Independent Police Auditor for the City of
3 Tucson. I've had my position since July of 1997.
4 That position was established here in Tucson after --
5 as a result of a study that the Mayor and Council did
6 primarily because of concerns that community groups
7 had brought forward to the council members here in
8 Tucson as to what was being done to effectively have
9 an oversight mechanism in the City of Tucson.

10 My authority really exists within the
11 City of Tucson, with just the City of Tucson Police
12 Department. I get many calls about the Border
13 Patrol, about the Pima County Sheriff's Department.
14 I don't have any authority to review any of their
15 actions. My authority is only over the Tucson Police
16 Department and its employees.

17 As I stated, my position was created --
18 actually created in March of 1997, and I assumed the
19 position in July of '97. I'd like to just talk a
20 little bit about some of the authority my office has
21 and what I do.

22 One of the initial concerns was that
23 there would be a location where citizens would also
24 feel more comfortable about going to file a complaint
25 about the police department rather than going to the

1 police department itself. So my office is located at
2 City Hall downtown. I am not at the police
3 department. I maintain an office at City Hall.
4 Citizens can come -- I do actual intake of complaints
5 in my office. Citizens can come and file a complaint
6 directly with my office rather than going to the
7 police department to file a complaint.

8 My authority as far as reviewing
9 complaints, I do not have investigative authority.
10 That's one of the misnomers, if you will, about my
11 office. Citizens oftentimes believe they come to my
12 office, I will be conducting the investigation. I do
13 not have investigative authority. I have review
14 authority, monitoring authority.

15 I can sit in on the complaint process
16 from start to finish. In other words, if I take the
17 complaint in my office, it's a complaint that I want
18 to be involved with the interviews of the witnesses,
19 subject officers involved in that complaint, I can
20 monitor that complaint from the onset.

21 In other words, I can ask the Office of
22 Professional Standards, who my complaints get
23 forwarded, to include me when the witnesses are going
24 to be interviewed and when the officers are going to
25 be interviewed. I am allowed to ask questions during

1 those interviews of witnesses and I'm also allowed to
2 ask questions of the officers through the person in
3 the Office of Professional Standards who is
4 conducting that interview. So in some respects I'm
5 still allowed to ask questions, it's just the
6 hierarchy of the way that occurs in the process that
7 I work with.

8 I'm also allowed at the end -- because
9 of the number of complaints, I don't obviously get
10 involved with every single complaint, you know, from
11 start to finish that comes through my office. I
12 audit on a monthly basis, get a completed list of
13 closed investigations from the Office of Professional
14 Standards. That list is sent to me on a monthly
15 basis. I can choose randomly or choose to audit
16 every one of those complaints. The average closure
17 rate is between 40 and 50 complaints a month. Every
18 complaint that comes directed through my office I
19 either get involved with from start to finish or
20 audit it at the end.

21 I also involve myself in complaints
22 that don't come directly to my office. If I see we
23 are getting some type of pattern or trend in the
24 types of complaints that are being filed, and perhaps
25 that complaint was filed directly with the Tucson

1 Police Department Office of Professional Standards, a
2 citizen may not even know my office exists, I still
3 get involved with auditing that complaint.

4 The authority I have when I audit
5 complaints is if I feel that the investigation of the
6 complaint was not thorough and complete, if I felt
7 that there was omissions as far as witnesses, that no
8 attempts were made -- not enough attempts were made
9 to locate critical witnesses, if there's
10 documentation that I feel that needs to be accounted
11 for in the investigation, I can send the complaint
12 back for further investigation until I believe that
13 the investigation of that complaint is thorough and
14 complete.

15 The police department -- Tucson Police
16 Department has been very cooperative in assisting me
17 to inform the community of the existence of my
18 office. Like I said, not all complaints come
19 directly through my door. We average between 12,
20 1,400 complaints on an average year. To date -- I
21 ran the number of complaints that comes through my
22 office. To date -- we do a fiscal year, July 1
23 through June 30th -- there's been approximately 150
24 complaints that have come just through my office. In
25 addition, like I said, I get involved in auditing all

1 the other complaints, too, that don't come through my
2 door.

3 But as far as some of the community's
4 outreach and involvement in the community, voice of
5 the community about the existence of my office, the
6 police department with every complaint that they
7 close, every investigative complaint, a letter goes
8 out to the citizen as to the disposition of their
9 complaint. The last paragraph of that letter also
10 advises the citizen that they can contact my office,
11 my phone number's on there, how to contact my office
12 should they have any questions or concerns about the
13 investigation that was done of their complaint. That
14 letter is signed by the Chief of Police.

15 The information about my office is also
16 distributed to community groups. I go out and do
17 public presentations to community organizations,
18 middle schools, high schools. Other review
19 mechanisms across the country, one of the critical
20 parts of the review mechanism, obviously, is to make
21 citizens aware that you exist. I believe that we
22 have done a good job here in Tucson, but there's
23 always more to be done. I always get, I didn't even
24 know you existed. A lot of community outreach to be
25 done out there.

1 I'll let Miss Wilber talk a little bit
2 about the Citizens Review Board. I believe Chief
3 Robinson kind of touched on that.

4 The City of Tucson is unique. We have
5 kind of like a twofold review mechanism. We have my
6 office, I report directly to the City Manager, but we
7 also have the Citizens Board that is a separate
8 entity. They don't report to me, I don't report to
9 them, but we work for the same goal.

10 To address a little bit more about the
11 complaints and some of the training issues, I don't
12 believe, having done this for almost three years,
13 really don't believe any kind of oversight mechanism
14 can be effective unless you also have the ability to
15 have input into the changes in policy, input into
16 change of procedure, input into what you believe the
17 training should be done.

18 I assist part of the tracking of the
19 complaints and so forth, like I said. I also track
20 trends if we have complaints in particular areas that
21 I believe need to be addressed, programs through
22 training.

23 We started a couple months ago also
24 including me in the training, in actual block
25 training out at the academy with new recruits. Chief

1 Robinson addressed the training that's done. There
2 is also -- I believe it's six to eight-week training
3 that's done just for the officers that are hired by
4 the Tucson Police Department. Those officers are the
5 ones -- I go out and I have a training period
6 allotted to me to discuss what my office does,
7 because I believe that the officers should also be
8 aware of the existence of my office, the purpose of
9 my office, and that they should also be able to
10 provide that information to a citizen during a
11 contact with a citizen if they wish to complain about
12 their treatment.

13 Just backing up a little bit. As far
14 as the input into training, I think some of it's been
15 covered. Miss Sutherland talked about six-minute
16 training.

17 I believe that you can't just review
18 cases, you have to be able to review cases and
19 identify where you can make a difference, where you
20 can have some kind of input to make corrections or
21 where you believe that modification should be done.
22 If you don't have the cooperation of the department
23 that allows you to have this input, I don't think you
24 can really be effective just looking at complaints.

25 That's part of something else I do. I

1 have regular meetings with Chief Miranda, with his
2 staff, with the staff of Internal Affairs to address
3 issues that I see either in the complaint process
4 itself or the types of complaints that I'm receiving
5 from my office.

6 I do have the statistics on a monthly
7 basis. The statistics, the complaints that come
8 through my office are obviously incorporated into the
9 overall statistics of the police department as far as
10 number of complaints and the nature of the
11 complaints. That information we also provide on a
12 monthly basis to the citizens to advise them as to
13 where -- it's a 12-month cycle. That is monitored
14 all the time as far as if there is any patterns or
15 trends or in the types of complaints.

16 I will say that the number one
17 complaint, if you look at the statistics, the number
18 one complaint by far in the City of Tucson that we
19 get is rudeness. That's basically the number one
20 complaint that we received. There's variations,
21 everything else in between. It kind of goes up and
22 down.

23 Some of the other things I guess I
24 wanted to address a little bit as far as the
25 outreach, the availability, the accessibility really

1 of my office to citizens. One of the questions, I
2 believe -- I'll let you ask the questions -- one of
3 the questions I believe was, does my office track
4 race, ethnicity and gender, age. Those are some of
5 the things that are tracked.

6 Obviously, when somebody files a
7 complaint, if they do not wish to disclose that
8 information, I do not make it a requirement, because
9 I don't want the citizens to feel that that in any
10 way will impact the way their complaint is being
11 investigated. In other words, it's not really a
12 requirement that they provide us that information.

13 They will see on that statistic that
14 some of that information is omitted. The citizens --
15 it kind of has to be delicately asked. Oftentimes --
16 sometimes age is the only thing they don't want to
17 provide. For the most part -- obviously, gender is
18 easy to ascertain, but you know the race, ethnicity.
19 Oftentimes people are hesitant to provide that.
20 Obviously, it doesn't have an impact on the way we
21 investigate their complaint, but it certainly has an
22 impact when we look at the statistics as to who's
23 filing the most complaints.

24 I believe the oversight mechanism --
25 citizens across the country have done some studies as

1 far as what relationship to officers -- do the
2 minority officers get more complaints than
3 nonminority services. There is a period of time in
4 the officers' tenure with their department that the
5 number of complaints increases. I just received the
6 annual report from San Jose, California. I haven't
7 had a chance to go through it. But certainly Tucson
8 Police Department, we do track the number of
9 complaints. That's another valid point to raise as
10 an oversight mechanism.

11 Many cities across the country, their
12 departments do not accumulate the number complaints
13 their officers are getting. The Tucson Police
14 Department does have a tracking mechanism to track
15 the number and nature of the complaints filed against
16 their officers. And their employees are all subject
17 to this process.

18 The number of complaints that have been
19 substantiated, even ones unsubstantiated -- the
20 number of complaints that are unsubstantiated stay on
21 an officer's record for two years, substantiated ones
22 stay on the officer's record for five years. That
23 allows myself, from the auditor's standpoint, to also
24 look at any kind of patterns or trends with a
25 particular officer, but it also serves the

1 department -- for their supervisors to alert them to
2 any potential problems.

3 They are required to -- if they see a
4 pattern with their employees, even if the complaints
5 are not substantiated, if you have an officer getting
6 numerous types of complaints in a certain area or
7 even in different areas, that could be a management
8 tool to be able to allow them to address the conduct
9 or what is happening with their employee. And I
10 believe that the department, especially in recent
11 months, has taken that information very seriously and
12 has effectively changed, if you will, the behavior of
13 many of their employees just by using those types of
14 statistics.

15 So I'll let Ida talk a little bit about
16 CPARB. We can both answer your questions.

17 MS. WILBER: Good afternoon. My name
18 is Ida Wilber, and I became the Chair of CPARB today
19 actually, officially. I was Vice-chair since
20 February, but I've been on the board as a nonvoting
21 member since 1998. I became a voting member in the
22 fall of last year.

23 CPARB was formed in 1997. There are
24 seven voting members and four advisory members who
25 are nonvoting. They all come from different parts of

1 the community. There are also on board -- there's a
2 representative from the City Manager's Office,
3 there's a City Attorney that sits on the board, there
4 is a representative from the Police Union, and
5 there's a representative from the Chief's Office.
6 However, the only voting members are the seven that
7 are appointed by -- one by the Mayor and one from
8 each -- City Council person of each ward.

9 And in looking at the questions that
10 were sent out in the letter inviting us to
11 participate, that's why I thought it was better to
12 just allow Liana to do the statistics part, because
13 we have access to the same statistics. We meet once
14 a month, on the third Tuesday at the main library,
15 from 6:30 to 8:45, and that's open to the public.

16 And the question -- we were talking
17 about the assessment of the effectiveness of local
18 law enforcement review mechanisms. I looked at that
19 question, and in reflecting there's three mechanisms
20 that I can think of. One is the internal review that
21 the police department does through their Internal
22 Affairs; and then there's Liana's office, the
23 Independent Police Auditor; and then there is the
24 Citizen's Police Advisory Review Board.

25 And the value of the Citizen's Police

1 Advisory Review Board from the other two, basically
2 we don't work for any particular agency and,
3 therefore, we like to think that it would provide an
4 opportunity for the citizens to come forward and
5 think that, because there is not an alliance with any
6 agency, maybe we would be more receptive to listening
7 to the issues that they raise. But what's
8 interesting about that is that over the last year
9 there's only been three formal complaints made to the
10 Citizen's Police Advisory Review Board.

11 Each portion of our meeting, it starts
12 off with an open call to the audience where citizens
13 can come in and have five minutes to talk about their
14 issues and concerns and request to be put on the
15 future agenda. And we've had usually an average of
16 two citizens that would come in to speak about their
17 issues, but we've only had three formal complaints
18 over the last year dealing with issues with the
19 police. We have not had any that specifically go to
20 racial profiling.

21 The issues that were raised were false
22 arrests and failure to investigate timely and
23 thoroughly, and inappropriate discussions or
24 inappropriate response to a call involving a
25 juvenile. Those are the three types of complaints

1 that we've had over the year.

2 The way we look at those complaints,
3 our authority of the board as a review mechanism, we
4 review completed complaints that have been done by
5 Internal Affairs. And what happens is that as we
6 look at that complaint, we get the information,
7 redacted reports from the police department, and what
8 each member does, we go over the complaint, we get
9 the information before we go to the meeting, and we
10 have it for discussion topic and we raise issues. If
11 there are issues as -- that we think there is an
12 issue as to timeliness or how an officer handled the
13 case or the determination that was made, then we
14 would form a subcommittee to look at it, to review it
15 more in detail.

16 And when we have subcommittees, members
17 of the public -- it is an announced meeting and
18 members of the public are invited to attend. What we
19 do, we identify issues and determine if we are going
20 to write a letter to the Chief of Police outlining
21 our concerns and making recommendations as to what --
22 how we think the issue should have been handled, what
23 we think needs to be done in the future to avoid --
24 we do that realizing that the Chief does not have to
25 listen. We do that realizing that if for some reason

1 we don't get a response that we feel is appropriate,
2 that we have the option of taking those concerns to
3 the Mayor and Council, but we don't have the
4 authority to issue discipline or to change
5 departmental policy. We do have the authority to
6 make recommendations. We have also participated in
7 some of the training provided by the police
8 department.

9 Liana mentioned we did statistics from
10 her office and also from the Internal Affairs office
11 regarding complaints. One of the trends that I have
12 noted is that -- it is number one -- there is an
13 issue where there seems to be a lot of reporting of
14 rudeness, but also there is a certain percentage that
15 you would see -- there's something that says
16 disparate treatment. They classify it as racial or
17 nonracial. From just reviewing the statistics before
18 I came over it looks like we have that complaint --
19 that's about, I would say, 20 percent of the time,
20 but there isn't further details as to -- there isn't
21 any further details as far as that statistic, but I
22 did note that.

23 And concerns besides the complaints,
24 the formal complaints that we have received from
25 members of the community, sometimes we identify areas

1 that we believe need to be addressed or we pose
2 questions to the police department that we would like
3 them to provide answers. For instance, we have
4 raised the issue of having random drug testing of
5 officers at all ranks, not just the new recruits that
6 are coming in.

7 We've asked for review of the off-duty
8 work policy, because sometimes there may be an
9 indication that officers may be overworked or some
10 instances may arise with the public that officers are
11 off work but there is a complaint that falls out of
12 their behavior.

13 I also think that one of the reasons
14 that we've only had three formal complaints over the
15 last year is basically because when we have a call to
16 the audience people come in and it allows them an
17 opportunity to vent, and then we tell them what their
18 options are as far as filing a complaint, but they
19 don't follow through with it. We do mail out forms
20 upon request.

21 But one of the other things that I
22 think Liana mentioned was to get the information out
23 to the public that we do exist, and some of the
24 things that we have been doing are listed on the City
25 Page and on Channel 12. Our agenda for each meeting

1 is published in the newspaper and it's on the City
2 Page, and people can request to be on the agenda of
3 future meetings.

4 Stop there.

5 MR. GATTONE: Questions from the
6 Committee?

7 MS. WEBB-VIGNERY: Thank you very much.
8 That was quite informative.

9 I have a question about the statistics
10 you keep on officers who have repeated offenses or
11 repeated times when they have exhibited behavior that
12 isn't appropriate towards a race or a culture. Do
13 you keep those in the department, do you have a
14 record of those?

15 MS. PEREZ: That complaint -- every
16 time a complaint is filed, the synopsis of the
17 complaint as part of the complaint package, the
18 officer complaint history is also run and is a part
19 of the complaint package. This is something that the
20 Citizen's Board also gets to review when they review
21 a file. They can see what that officer's complaint
22 history is as well. I don't keep them personally.
23 They are kept, obviously, with the Office of
24 Professional Standards and the official Internal
25 Affairs package.

1 Like I said, it's also a database
2 that's maintained to track it for, like I said, the
3 unsustainable ones, the sustained ones for five
4 years, and it's tracked by the nature of the
5 complaint. There's about -- I would say at least a
6 hundred different allegation type codes, everything
7 from you use of force, excessive force, all the way
8 down to losing or damaging citizens' property, and
9 everything in between. The nature of the type of
10 complaint is also tracked.

11 Just to touch a little bit on the
12 racial -- number of racial complaints, I believe when
13 Chief Miranda was initially asked at the community
14 forums that started back in last November, December,
15 we went back a year to see how many complaints we had
16 actually gotten that were race specific, and at that
17 time there was only 18 complaints out of a whole
18 year's period that alleged that the complaint was --
19 that there was some kind of racial motivation or
20 racial nuance or statement or racial slur or racial
21 profiling type stop. There was only 18 complaints
22 that we could tell.

23 Obviously, sometimes the complaint can
24 start off as something else and turn out to be --
25 start as like a rudeness, but turn out to bring out

1 another issue. Those complaints are also tracked.
2 If a complaint starts out, like I said, as a rudeness
3 complaint, but that in the course of investigation we
4 find that it is really a violation of another type of
5 policy, that complaint could still be substantiated
6 even though that's not how the complainant
7 articulated their complaints when they came forward.
8 That is also substantiated and kept on record.

9 MS. WEBB-VIGNERY: You mentioned, also,
10 that if something -- if there is a problem that needs
11 to be dealt with and if you have someone who is
12 exhibiting these characteristics that they don't like
13 a certain race or culture or whatever, what type of
14 training are they going through and how can you track
15 that that has actually ended?

16 MS. PEREZ: This is something I didn't
17 cover. The police department has what's called an
18 early intervention program. I believe the terms of
19 it have changed a little bit in the last couple
20 years. But it gives the supervisor the ability to,
21 based on the types of complaints that they are
22 getting, to refer -- obviously, levels of discipline
23 vary. If a complaint is substantiated, the level of
24 discipline, depending on the nature of the complaint,
25 can be anything from verbal reprimand, counseling,

1 all the way up to termination.

2 The complaints -- if we see that
3 there's a pattern of the types of complaints and the
4 supervisor can determine what type of training may be
5 appropriate to send that employee to, I've seen
6 employees -- just as an example, about a
7 year-and-a-half ago I had an employee that -- an
8 officer that was getting three, four complaints every
9 month for like six months. None of them were being
10 substantiated. They were all rudeness complaints,
11 they were all complaints filed by women, and they
12 were all involving traffic stops. And we weren't
13 able to substantiate it in the complaints because it
14 wasn't really an issue of -- the complainants were
15 stating, you know, it wasn't necessarily what the
16 officer said, it was just the way he treated me, the
17 way he acted. It wasn't something that really fell
18 within something that could be substantiated.
19 However, there was a pattern here of the type of
20 complaints.

21 So what the supervisor did was bring in
22 that employee, the captain brought in that employee,
23 it turned out that this employee was having a lot of
24 problems in his personal life. He was going through
25 a divorce. Apparently, every female citizen that he

1 was stopping, you know, was the recipient of some of
2 his personal problems.

3 That employee was sent to an anger
4 management course, anger management training. I have
5 not gotten one complaint. This is about 18 months
6 ago. I have not received a complaint on that officer
7 since that period of time. So there's ways to track.

8 This is something -- I also brought
9 copies of my annual report. I'm also required to
10 provide an annual report to the City Manager and also
11 to the Mayor and Council. One of the issues that I
12 identified last year in my annual report was
13 evaluation of this early intervention program. If,
14 in fact, once we send an employee to any kind of
15 counseling -- we can send them to diversity training,
16 in other words, to address the issue of -- if it's a
17 race-related type issue, what is the impact of that
18 training, do we see the type of complaints after they
19 have been referred through this program to have these
20 issues addressed.

21 MS. WEBB-VIGNERY: Thank you.

22 MR. GATTONE: Isabel.

23 MS. GARCIA: Yes. I'd like to know --
24 maybe you did mention it briefly. I'd like to know
25 what efforts you're taking to actual community

1 outreach. In other words, it's great that the office
2 exists, I think that's commendable, but if you don't
3 receive the response from the community when, in
4 fact, there are problems, it's really of little use
5 to that particular community.

6 What community outreach efforts are you
7 making? And I guess I'm specifically talking about
8 south and west Tucson, those particular areas. And
9 does CPARB ever have at least, like once a year, once
10 every quarter, have a meeting out in the community,
11 in particular communities, that is publicized and the
12 community's invited to come in and discuss the
13 problems or the relationship or suggestions to the
14 police department?

15 MS. PEREZ: I'll address mine first.

16 The information -- I have informational
17 brochures about my office that are disseminated to a
18 lot of the community advocacy groups, a lot of the
19 citizen and neighborhood services departments. The
20 City of Tucson has a monthly flier that they send out
21 to all the organized neighborhood associations in the
22 City of Tucson. I believe there's over 200 some
23 registered neighborhood associations. Information
24 about my office goes out to them with also the
25 invitation if they would like me to come attend one

1 of their public meetings, neighborhood meetings. I
2 do presentations at neighborhood association meetings
3 and meet with community groups.

4 This last year I have really -- because
5 of the nature of the complaints I'm getting through
6 my office I really focus a lot of my outreach efforts
7 towards the youth of the community. I have done
8 presentations at the middle schools and high schools.
9 Last year I did surveys, actually went out and did
10 presentations, classroom presentations, and did
11 surveys, five-question surveys with the students. I
12 believe I have received between like 900, 1,200
13 responses to those surveys.

14 After having done my presentation and
15 gotten the feedback from -- one of the most important
16 questions that I ask that I feel is important on that
17 survey was what suggestions do youths have to improve
18 the relationship between the law enforcement in this
19 community and youths. And the information that I get
20 back -- there is so many positive and excellent
21 suggestions that I have gotten back from that.

22 And that information I actually share
23 it with the police department, with their SRO
24 programs, with the officers that are working directly
25 with a lot of the school groups. The police

1 departments, different areas within the department
2 that I'm working on -- obviously, I can do more,
3 there's -- and this is something that I foresee, it's
4 a continuing basis. As the kids are coming
5 through -- I hesitate to call them kids because many
6 of them have such life experiences at, you know, 12,
7 13, 14 years of age and encounters with law
8 enforcement that I believe that it's important to be
9 out there and to let them have a voice, also, as to
10 what their concerns are.

11 My office brochures that I distribute
12 from my office are also in Spanish. When someone
13 calls my office to file a complaint, if I'm not
14 available, there's also a recorder in my office, also
15 in Spanish, so that they can leave a message. And
16 really a lot of it by word of mouth, somebody has
17 seen me do a presentation someplace, asked me to --
18 or heard that I do presentations. I also have
19 participated in the department's -- the Priority One
20 show that we do on racial profiling.

21 Trying to think of other areas.

22 I'll let Ida answer as far as CPARB's
23 operation.

24 MS. WILBER: As far as CPARB'S
25 outreach, it hasn't been what it could be and there's

1 room for improvement, but basically the
2 information -- we just recently developed a brochure
3 that talks about CPARB, how you can get in contact
4 with us, and it's been distributed to some of the
5 same areas that Liana had just said that she
6 distributed her brochure. And we've placed
7 information in newspapers, radio and TV channels and,
8 as I had mentioned earlier, that the monthly agenda
9 is published.

10 The Chairman before, the Chairman last
11 year attended some of the community meetings with
12 Liana. But in answer to your question, if we had set
13 up a community forum just on CPARB alone, we have not
14 done that, but we have had a minor discussion about
15 that and that will be a future agenda item.

16 MR. GATTONE: Were you done?

17 MS. GARCIA: Yes.

18 MR. GATTONE: Delia.

19 MS. GARCIA KIM: Thank you, Mr.

20 Chairman.

21 Ms. Wilber you were mentioning in your
22 testimony that CPARB is an independent organization
23 or community -- that it's not affiliated with any
24 agency; is that correct?

25 MS. WILBER: Yes.

1 MS. GARCIA KIM: My question is -- I
2 don't mean to offend you, congratulations on your
3 recent appointment, but what assurance do you have
4 that the police department or that the City Manager's
5 Office or that the City Attorney's Office or that any
6 of the organizations that are involved in policy
7 making and law enforcement really care about what
8 CPARB does or their perspective or their
9 representation in the community?

10 I know that they have representatives
11 to the group, but what's the assurance that they
12 don't go to those meetings just because they have to
13 and that they really pay attention to what CPARB has
14 to say?

15 MS. WILBER: That's a good question.

16 First of all, I think that because the
17 relationship -- well, we are an independent
18 organization, it's made up of citizens, and basically
19 the selection of the members to the board are left up
20 to the board members after we advertise to the
21 public.

22 But also, as far as the assurance that
23 there is some good faith effort by the police
24 department or the City Manager or other areas that
25 send representatives, basically I think it has been

1 pretty good, but also I think you're correct when you
2 raise the issue that sometimes there may be people
3 there just because they are assigned to come there,
4 and sometimes we do get that sense.

5 And sometimes when we are raising
6 issues about the police department or the way we
7 think that an investigation has gone -- one of the
8 things I neglected to mention was that in addition to
9 having complaints come in from citizens, we also
10 review at each meeting some reports or some
11 investigations that have already been completed.
12 They are redacted reports, and we raise issues about
13 that also.

14 So to that extent, even if some of the
15 people that are sent as representatives don't really
16 want to be there, we still have the documentation of
17 the issues that we are raising. And if we don't feel
18 that we are getting a -- if we don't feel that we are
19 receiving satisfactory answers, which sometimes we
20 don't receive the answer that we think we should
21 receive, we revert back to looking at the ordinance
22 that tells us what our limitations are, because we
23 don't have as much power as some boards. I guess, as
24 an example, the review board in New York, because
25 they are independent and they have investigative

1 authority, which we review investigations that have
2 already been done. That's another distinction. And
3 they have the ability to make recommendations as far
4 as discipline, and we don't. We review the
5 discipline that has already been administered.

6 So I would say that we're still
7 evolving and we're not where we want to be yet, but
8 on the other hand we may be ahead of some of the
9 other review boards that exist in other cities.

10 I think you had a few questions in
11 there. Have I addressed them?

12 MS. GARCIA KIM: Yes, you have. I have
13 one other question.

14 Ms. Wilber, you mentioned ordinance in
15 your answer, CPARB is a city board created by city
16 ordinance. I guess I'm not clear as to how CPARB
17 came into existence in 1997.

18 MS. WILBER: I don't have a copy of the
19 ordinance. CPARB came into existence by a city
20 ordinance that was passed by the City Council, and it
21 identified that it was independent. It wasn't from
22 the police department, it wasn't from the City
23 Manager's Office. And then it also in that same
24 ordinance talked about the criteria for membership
25 and so forth.

1 MS. PEREZ: Actually, a copy of their
2 ordinance is included in my annual report as a
3 reference item, because I think it's important to
4 make the distinction between the authority of my
5 office and also the Citizen's Review Board. I
6 brought copies of those, too.

7 MS. GARCIA KIM: Thank you.

8 MR. ZAZUETA: Let me follow up on that.
9 Has the Citizen's Advisory Board ever
10 got into a controversial thing like not agreeing with
11 a wrongful death or brutality, anything like that?

12 MS. WILBER: The most controversy that
13 I believe that we've gotten into was a review of a
14 complaint where a person -- it was a combination
15 divorce, domestic violence-type issue with a blended
16 family.

17 And in that particular case the mother
18 of a child was arrested, and as a result of her
19 arrest it impacted her education and it impacted what
20 she wanted to do. She wanted to be a pediatric
21 nurse, and so because of that her future employment
22 in that field was impacted, because they asked a
23 question about, have you ever been arrested for child
24 abuse.

25 And so the issues that -- if I recall

1 correctly, some of the issues that we raised was that
2 if there were -- number one, the issue of child abuse
3 was like three months later after the incident
4 occurred. It was not reported to Child Protective
5 Services until three months later, and there were two
6 people in a tug of war over the child. How do you
7 determine which one injured the child?

8 And then also as to the medical
9 evidence, it was something -- it said that the
10 child's arm was disjointed, but it's something that
11 could happen when you were lifting him up by an arm.
12 We had concerns about the way that a determination
13 was made as to who you arrest in that situation, the
14 period between the time of charging and arresting,
15 the period between the time that it was reported to
16 Child Protective Services, and then the fact that it
17 did get dismissed in court.

18 So we addressed those issues with the
19 police department, and we received a response back.
20 But the result that the person wanted was to get that
21 removed from her record, and that they were not
22 willing to do.

23 MR. ZAZUETA: Did you go to the Mayor
24 or to the City Manager then?

25 MS. WILBER: No, we didn't go to the

1 City Manager. I think this was over a year ago.

2 MR. GATTONE: Oh, Angela. Please.

3 MS. WILBER: I'm sorry.

4 In another add-on to that, she did have
5 an attorney, so the attorney was going to address
6 some issues with that. She had reported it to risk
7 management. I don't know how that came out resolved
8 down the line, but as far as the arrest, it didn't
9 get set aside, as far as we know.

10 MS. JULIEN: Miss, you said you report
11 to the City Manager, right?

12 MS. PEREZ: Correct.

13 MS. JULIEN: Then you're a city
14 employee?

15 MS. PEREZ: Right.

16 MS. JULIEN: Not an employee of the
17 police department?

18 MS. PEREZ: Right. City employee.

19 MS. JULIEN: Then it sounds like the
20 example that you gave of the police officer who had
21 had several cases of rudeness to females -- I know
22 you're going to give us some data. Just so I'll
23 know, when will we be able to see the types of
24 complaints, and will they be categorized by ethnicity
25 of both the officers and the complainant?

1 MS. PEREZ: I categorize -- today we
2 have been categorizing ethnicities, as I said, of the
3 complainants. That's voluntarily submitted.

4 MS. JULIEN: Right.

5 MS. PEREZ: I would say probably 85 to
6 90 percent of the time that is provided by the
7 citizens voluntarily. You will see on there there
8 are some blanks. That's when the citizen has
9 declined to provide that.

10 We have not been today tracking the
11 race or ethnicity of the subject officer. That's
12 something that we -- I personally have been
13 attempting to address to see if there's relevance.

14 Like I said, I mentioned in San Jose
15 they have been doing it. She's been doing it like
16 the past two years. I don't know if she's been
17 able -- it appears that they are able to draw more
18 conclusions from the tenure of the officers rather
19 than what the race or ethnicity of the officers is,
20 at what point in the career do they tend to get more
21 complaints and the type of complaints that they are
22 getting rather than race, ethnicity being a factor in
23 the type of complaints they are receiving.

24 To answer your question, we haven't
25 done it yet. That's something that I have

1 considered.

2 MS. JULIEN: Is there a difficulty in
3 getting that?

4 MS. PEREZ: I don't think it would be
5 difficult in getting, because it would be -- we're
6 tracking the number of complaints by race. The only
7 thing would be just an adjustment to the database as
8 far as inputting, you know, ethnicity of the officer,
9 also the age and the years of service of the officer.

10 MS. JULIEN: Can you give us an average
11 number per month of complaints that your office is
12 dealing with?

13 MS. PEREZ: That my office gets?

14 MS. JULIEN: Uh-huh.

15 MS. PEREZ: I probably get between
16 20 -- around 20, 25 actual complaints through my
17 office, actual complaints where I actually do the
18 intake on them. Then I get another maybe 20 to 25
19 requests from citizens that have already gone through
20 the process, like I said earlier, have gotten the
21 letter, still aren't satisfied with the outcome of
22 their complaints, ask me to review the complaints on
23 their behalf, then I --

24 MS. JULIEN: How about through the
25 process of the -- who have gone through the process

1 with the police department?

2 MS. PEREZ: The ones that go -- that
3 are filed directly at the Office of Professional
4 Standards, like I said, I don't get those complaints
5 oftentimes until -- or I'm aware of them until the
6 complaint is closed or the citizen contacts me once
7 they get their dispositional letter from the Chief of
8 Police.

9 The Office of Professional Standards
10 does, however, send me like a weekly list of the
11 number of complaints that are being filed overall.
12 It's not just my complaints but the ones that are
13 coming in their door as well.

14 If there is a particular type of
15 complaint I'm interested in tracking or a particular
16 type of complaint being received by a specific
17 employee that I'm interested in tracking, I can
18 involve myself in those, too. Just because it
19 doesn't come through my office doesn't mean that I
20 can't get involved in it.

21 MS. JULIEN: Thank you.

22 MR. GARCIA: Miss Wilber, Miss Perez, I
23 have two quick questions. First one for Miss Wilber.

24 In regards to the complaint filing
25 process that you spoke of earlier, you mentioned that

1 in the community forums that you had appeared at, if
2 you can give me a broad, maybe ballpark percentage as
3 to how many people actually came forth in those
4 forums follow through with complaints, if you can
5 give me that, then also give us an idea what the
6 filing process entails.

7 MS. WILBER: Okay. In regards to the
8 number of people that come forward for the call to
9 the audience, it's an average about two per meeting.
10 Last meeting was the first time there was no one.
11 That would be about 24 per year.

12 As I stated, there were three formal
13 complaints that were filed over the last year. The
14 process that is used if they are filing a complaint,
15 once they come for the call to the audience -- they
16 don't have to come to the call to the audience to
17 file a complaint with us. Number one, they can call
18 the city, they can call the City Clerk's Office and
19 we would -- the City Clerk would mail out a form to
20 them to send to CPARB.

21 And what would happen once we receive
22 the complaint, then we would bring the complaint
23 before the board and we would request the materials,
24 we would determine if there is an investigation
25 already occurring through Internal Affairs by the

1 police department. And if there is an ongoing
2 investigation, then we would wait until that
3 investigation was completed to review what was done,
4 what their decision was.

5 But if there is no investigation
6 pending and they fill out -- a form is filled out and
7 submitted to us, then we would request documents from
8 the police department. And they have been really
9 good about providing redacted documents and reports
10 and stuff regarding that particular incident.

11 MR. GARCIA: There's a form that needs
12 to be filled out?

13 MS. WILBER: Yes, there is a form that
14 needs to be filled out.

15 MR. GARCIA: Do you provide assistance
16 filling out that form?

17 MS. WILBER: We have not provided
18 assistance in filling out the form, it has never been
19 requested, but we have left numbers -- I mean, they
20 have available our numbers and everything if they
21 need to have questions answered.

22 MR. GARCIA: One quick question for
23 you, Miss Perez, in regards to the situation you
24 referred to with the officer that had 16
25 complaints -- I think you mentioned 16, something

1 along that area.

2 How many complaints -- if you can just
3 explain briefly, how many complaints do you
4 basically -- might get on an officer to get you to
5 the point to decide this officer needs additional
6 training, how does that feedback mechanism work?

7 I'm curious. In that particular case,
8 had the frequency of complaints already been
9 escalated? When did the training actually -- when it
10 was recommended, when did the additional training
11 take effect?

12 MS. PEREZ: Again, going back to talk
13 about this early intervention program, I believe that
14 the supervisor actually has the discretion to trigger
15 that mechanism at any time. It could just be one
16 critical type of complaint that they believe is
17 reason to send an employee, it could be a culmination
18 of several types of complaints.

19 Like I said, in this instance they were
20 all falling into like the same category. It doesn't
21 necessarily have to be that way. Like I said, I've
22 seen oftentimes where it can just be one complaint of
23 a critical type nature that the supervisor deems it
24 necessary.

25 I don't have -- I guess I could

1 explain, too, I don't have the authority to recommend
2 any kind of discipline, but I can -- or in this case,
3 you know, recommend that it can -- the employee be
4 referred to this program. But I do have, obviously,
5 the ability to express those concerns to the
6 supervisors.

7 The way that I would trigger is ,
8 through -- I work very directly with the Office of
9 Professional Standards, through the lieutenant that's
10 the commander for that office, the Chief of Staff.
11 So as I work my way through the chain of command, if
12 I feel that there's an issue that's not being
13 addressed with an employee, I can take that all the
14 way up to the Chief of Police if need be, or also
15 through the City Manager's Office, too.

16 MR. GARCIA: But in this particular
17 case it took 16 complaints?

18 MS. PEREZ: I said there was about two
19 or three complaints a month over a period of -- well,
20 I guess that would be 18 complaints.

21 MR. GARCIA: Thank you.

22 MR. GATTONE: I have a quick question.
23 I think we need to move on.

24 Do you think that -- I guess it's a
25 question about both the Independent Auditor and

1 CPARB. Do you think the fact neither of your bodies
2 have independent investigative powers is a
3 disincentive to the community to come to you with
4 concerns? I guess what I'm -- in light of the answer
5 to one of the questions, I guess you said if a person
6 comes to you at the CPARB meeting you refer it -- no
7 investigation has been done with Internal Affairs,
8 you have to refer that to Internal Affairs first?

9 MS. WILBER: No. We would give them a
10 form to fill out --

11 MR. GATTONE: Okay.

12 MS. WILBER: -- for our purposes so we
13 could start asking for information.

14 And I guess I'll go ahead and answer if
15 it's a disincentive.

16 MR. GATTONE: Please.

17 MS. WILBER: Because it could be,
18 depending upon the person, because during the call to
19 the audience we have people that are very vocal. And
20 they have an opportunity to stay throughout the
21 meeting. They can stay throughout the whole meeting
22 and they can observe the types of questions that the
23 panel asks to the Internal Affairs person, because
24 there's someone from Internal Affairs there, and they
25 observe what type of questions we are going to have

1 followed up or what we say we need more information
2 on, and if they through that whole process -- I think
3 it would be an incentive to them because they would
4 see, oh, they really are going to ask more in-depth
5 questions, seek more information.

6 However, we've had, on occasion, where
7 people came and they presented an issue, and we told
8 them that we would need you to file a complaint, or
9 if there's a complaint already filed we would have to
10 wait to see what the outcome was so we could review
11 it, sometimes they will say, oh, well, you're all in
12 it together, you're not going to do anything. It
13 goes both ways.

14 MR. GATTONE: Liana.

15 MS. PEREZ: To answer your question on
16 behalf of the auditors, one of the things -- after I
17 complete auditing an investigation I also send out a
18 letter from my office to the complainant giving them
19 more detail than your case was sustained or not
20 sustained, giving them more detailed explanation what
21 kind of information I sought from the file, what kind
22 of facts I believe were relevant to proving or
23 disproving the complaint.

24 Obviously, sometimes it's going to go
25 one way or the other, very rarely middle of the road.

1 It oftentimes gives the appearance that I'm agreeing
2 with the department, because I can only -- I have to
3 go with whatever the facts ascertain support.

4 As far as the ability to have my own
5 investigative staff and so forth, I don't really
6 think that it has detracted from the value of the
7 mechanism that we have, because in talking to other
8 mechanisms across the country, even the ones that
9 have investigative powers, they still have problems.

10 I believe that the real issue is the
11 cooperation that you get from the department that you
12 are working with. Are they readily available to give
13 you that information that you need to make your
14 determination as far as the information about -- you
15 know, are they willing to seek out the witnesses, are
16 they willing to interview those witnesses, are you
17 satisfied with the type of interview that they did on
18 the witnesses, are they willing to provide you with
19 the facts, documents and factual information that
20 support it. I think that is what's really relevant
21 to make a good investigation or not.

22 MS. WILBER: She said something that
23 prompted -- one of the investigations that we did
24 review, we just mentioned at our last meeting also
25 where we included it in the minutes, is basically

1 that we had noticed that sometimes when people
2 complain that there's a tendency on the part of the
3 police in the investigations we've done, they do a
4 check on that person and sometimes reports come back
5 where they are vilifying the person that's
6 complaining. So we noted that. And we did note that
7 in a letter, we've noted it in two -- if I recall
8 correctly, we noted it in the minutes.

9 Because we would like to encourage
10 people to continue to come forward with their
11 concerns. And the thrust of the investigation should
12 be, you know, the policies, the procedures, and what
13 happened, or what should have happened that didn't
14 happen, or what was inappropriate, and not how did
15 this person who is complaining get the information.
16 That's not the issue. So we strongly address that.

17 MR. GATTONE: Anything else from the
18 members of the Committee?

19 Could you provide the statistics? I
20 know you have brought material. If you could just --
21 I guess you could just leave them with staff to
22 distribute.

23 MS. PEREZ: Yes. I brought the copies
24 of my annual report, most recent annual report. Then
25 also these are the monthly statistics that we gave

1 out at Tuesday's meeting. It covers a 12-month
2 cycle. There's a breakdown in the complaints, also
3 track complaints by the area of town --

4 MR. GATTONE: Great.

5 MS. PEREZ: -- that the complaints are
6 to see what areas are getting the most complaints and
7 the nature of the complaints that are coming broken
8 down geographically by the city.

9 MR. GATTONE: Thank you. We appreciate
10 your time.

11 The court reporter needs a five-minute
12 break. I know our next speakers are on a time limit.
13 I may not have time.

14 (Recess.)

15 MR. GATTONE: Could you state your
16 name?

17 MS. BROCE: My name is Maritza Broce.

18 MR. FORD: My name is Chris Ford.

19 MR. GATTONE: Just to note for the
20 record, too, Miss Broce is a coworker in my office
21 but is here today representing Copwatch group and
22 some other local activists.

23 Go ahead.

24 MS. BROCE: We actually have a forum
25 that we are doing tonight about militarization, human

1 rights abuses along the border, special guest speaker
2 from out of town. We're here with Tucson Copwatch,
3 and I wish we had only received three complaints this
4 year so far as well.

5 Tucson Copwatch is a campaign for
6 community safety, unity and police accountability.
7 We organized in November of 1998 to address
8 violations of Human and Civil Rights. We witness and
9 document any abuses of authority through our Copwatch
10 patrols. We are armed with video cameras, Know Your
11 Rights cards as we safely follow and record the
12 actions of local law enforcement officials.

13 As a grass roots organization we are
14 working to defend the rights of everyone in our
15 community, to make sure that we receive fair
16 treatment under the law. We are also dedicated to
17 using nonviolent legal action to fight for Human and
18 Civil Rights. Our activism brought increasing
19 concern with police misconduct, as well as being able
20 to witness increasing cooperation between law
21 enforcement and United States Border Patrol.

22 We also work in partnership with the
23 Southwest Alliance to Resist militarization to
24 investigate involvement on the part of the U.S.
25 military in enforcement of civilian law, as well as

1 Copwatch patrols enable us to educate the entire
2 community of their civil and human rights when
3 confronted by law enforcement.

4 The patrols also enable us to document
5 police activities with video cameras to prevent
6 police harassment, and we do not provoke
7 confrontation or interfere with police officers while
8 on patrol. All our members must complete a
9 comprehensive training, sign a pledge of safety,
10 nonviolence.

11 We are very proud of our distribution
12 of the Know Your Rights card, passed out close to ten
13 thousand cards to our community. I'd like to -- if
14 you could take a look at the cards we just passed
15 out. Very simple, some of the simple -- know your
16 rights when you are encountered by law enforcement.

17 One of the things I want to point out,
18 inside where it says, what is an abuse, then it lists
19 a couple things. This is so essential, because so
20 many people in our community don't even recognize
21 that they have been abused. So we added this here so
22 that people can remember that they do have the right
23 to be treated with dignity, that they can't be
24 stopped because of the way they look, that they are
25 part of a neighborhood sweep just profiling them.

1 That is abuse, they need to report it, which is the
2 back side.

3 Our organization works closely with
4 Liana, the Independent Police Auditor. We actively
5 encourage every single person to report any possible
6 abuse to her office. And, of course, it lists our
7 number and my workplace, as well as the Derechos
8 Humanos/Border Rights Coalition, who is also active
9 and will be speaking to you a little.

10 I think the most important things about
11 these cards, that also they allow your community
12 dialogue, a real community dialogue. It's like
13 passing out candy, everybody wants one, everybody.
14 We have not had a single person who, when we go out
15 in the streets, not want to take one. We have
16 military folks who take them and we just receive
17 positive feedback. People are really interested in
18 knowing what their rights are when they encounter law
19 enforcement.

20 I just really -- in light of that it
21 enables us also to hear and document some of the
22 history, some of the stories that some of the people
23 have on the streets. And, you know, I'm not usually
24 easily shocked, I myself have experienced police
25 harassment. I've also experienced harassment by the

1 Border Patrol. These stories still shock me. I came
2 from a small community where I didn't experience
3 police harassment or abuse until I arrived in Tucson
4 five years ago.

5 I'd like to share with you just five
6 short stories of people who shared their cases of
7 abuses with us. Really, for anyone who has any doubt
8 in their mind that profiling, that abuse does not
9 exist, they only need to come out with us on a
10 Copwatch patrol.

11 This is from Brad.

12 At approximately 9:30 p.m. I was
13 squatting in front of a Aroma Cafe on Fourth Avenue
14 and Seventh Street rolling a cigarette when Officer
15 (name stricken) walked up and told me I was getting a
16 ticket for sitting on the sidewalk. He told us
17 people --

18 MR. GATTONE: Can I interrupt for just
19 two seconds?

20 Actually, by our rules, I think, please
21 don't mention specific officers' names.

22 Thank you. Forgot to mention that.

23 MS. BROCE: Walked up, told me I was
24 getting a ticket for sitting on the sidewalk. He
25 told other people that were standing nearby that they

1 needed to move on or go to jail.

2 MR. GATTONE: I'm sorry to interrupt
3 one more time.

4 Did we have the name of the officer
5 stricken from the record?

6 Thank you. Go ahead.

7 MS. BROCE: He then told me that he did
8 not understand why you people keep coming to Tucson.
9 He told me also if he saw me on Fourth Avenue within
10 24 hours he would put me in jail.

11 This is Hector.

12 I've had some experiences with the law.
13 Most of the time I've been stopped because I look
14 suspicious, though there was never any probable
15 cause, they would never find anything on me, but they
16 still do this two, maybe three times a week.

17 Yeah, I know somebody who has been
18 abused. A friend of mine, Danny, he got pulled over
19 by a security guard in my apartments, the guard
20 searched the car without permission and found a gun.
21 The guard called the police saying Danny had a gun
22 without any papers. Several cop cars spun in and
23 surrounded him. They asked if he had had a gun.
24 Danny said, yes, and that he had papers for it. One
25 cop then pulled out a gun on him, started threatening

1 to shoot. Danny was then arrested for a couple hours
2 for having an illegal gun, even though he had papers
3 for it at home. Now he's been marked by the cops,
4 every time they see him they pull him over.

5 One of my homeys and I get pulled over
6 by the cops. One cop said we stole a car and said we
7 are causing problems. We were just sitting out in
8 the street when they came and slammed us on the
9 ground and left us handcuffed for an hour. They
10 wouldn't tell us why and they did not charge us with
11 anything. We're always getting stopped because we're
12 black.

13 The last one is from Angel.

14 I'm always getting stopped by the
15 police for no reason, my friends have, too, but
16 nothing we can do about it. They have the badge,
17 they have the power, we're Mexicans. They always
18 push us around and ask all kinds of questions and
19 even arrest us for no reason. I've spent nights in
20 jail all kinds because of them in my past. They
21 think that I've done things before, I'm going to do
22 it again. I moved out here about five years ago from
23 L.A. It's not as bad in Tucson, but it's pretty much
24 the same wherever you go.

25 You know, there's nothing scientific

1 about the way we collected this data, but they are
2 human stories and they are important stories. They
3 are not often heard. You know, I think these stories
4 most of all remind us of the damage that's being done
5 when people's Civil and Human Rights are violated.
6 And I think that it also highlights that this isn't
7 just racial profiling, it's youth profiling and it's
8 poverty profiling as well as.

9 So I think it just has a really
10 chilling effect on our community.

11 Chris is going to talk a little more
12 about our experiences with Copwatch.

13 MR. FORD: One of the areas that we
14 really hit a lot is Fourth Avenue. I don't know how
15 many of you are familiar with downtown Tucson, it's
16 kind of a culture area, there's a lot happening on
17 Fourth Avenue, and it tends to draw a lot of people,
18 a lot of kids coming in off the street, a lot of
19 homeless people are drawn to Fourth Avenue. That's
20 where we receive a large majority of our complaints,
21 is from the kids on Fourth Avenue from, you know,
22 being harassed by the police.

23 We have laws for sitting on the
24 streets, harass kids for sitting in the park a lot,
25 it really happens. Also a lot of complaints happen

1 from kids that are stopped that are actually paid for
2 by the Fourth Avenue Merchants Association. Police
3 when they get off duty get hired by the Fourth Avenue
4 Merchants Association. They are the ones who
5 actually started putting a lot more pressure on the
6 kids when they are being paid by the Fourth Avenue
7 Merchants Association. That's when a lot of times it
8 seems we see the step-up of harassment of the kids.

9 There are some bad kids that do come
10 through. Most kids come through Tucson because it's
11 warm. A lot of kids come from homes of abuse, a
12 large percentage come from sexual abuse in the home
13 and have no place else to go. They kind of live a
14 life on the streets.

15 Tucson does have some services for them
16 but not a lot, not the kind that they really need.
17 So the main thing that the City of Tucson does is to
18 try to get them out of town by basically harassing
19 them, driving them from the parks, driving them from
20 the street.

21 For the most part, the Fourth Avenue
22 Merchants -- we don't really have a lot of problems
23 with them. For the most part, they are supportive of
24 what they do. They don't want to really see a lot of
25 the kids -- there are -- a lot of the kids -- they

1 don't want to have abuses that happen.

2 There are a lot of Fourth Avenue
3 Merchants who are really vocal with their views and
4 try to push to get the kids cleared off the streets.
5 Really, one of the things we are trying to focus on
6 the part of youths is kids being harassed by the
7 police officers, kids sitting on the streets, kids
8 with no place else to go.

9 I think one of the things that would
10 really help out if there were some sort of community
11 center, some sort of spot where the kids could go
12 where they could take showers, use the phone, sleep,
13 you know, use the bathroom if that's, you know, a big
14 problem. Kids have no place to use the restroom. If
15 there were something set up like that, I think that
16 would be -- do a great deal not only to get the kids
17 off the street, also allow them to clean themselves
18 up, take a break from living life on the street,
19 allow them to get -- move forward, try to come out of
20 this poverty that, you know, they have been forced to
21 live a life of.

22 MS. BROCE: If I could add a few
23 things, too.

24 I think some of the solutions -- you
25 know, I applaud the effort of the police and of the

1 Independent Auditor and CPARB as well. I think
2 there's some real problems as we move towards talking
3 about community policing. I can let you know right
4 away from one part of the community's policing, bike
5 patrols is who we see the most complaints about. The
6 bike patrols, that is who we are seeing the
7 complaints. All of these new ideas of doing bike
8 patrols, the walking patrols that are supposed to get
9 police officers more in touch with the communities,
10 still have problems and must be addressed.

11 I think that when we look at the
12 prevention we also have to go back and look at what
13 are we going to do with the people whose rights have
14 already been violated, what is the effect
15 psychologically on these young people whose Civil
16 Rights have been violated.

17 I have lots of opportunities to go to
18 some different high schools around here. I've been
19 here to Amphi before, given presentations, and it's
20 startling to me to see the effect that has on the
21 young people, because they no longer even believe
22 they have rights anymore. I think that's where we
23 are at right now.

24 In doing presentations the first thing
25 I usually start off with is what are Human Rights,

1 what are Civil Rights. The only thing they can come
2 up with, you have the right to remain silent, a
3 little bit more than Miranda Rights. That's it.
4 They don't have a good understanding of what our
5 Civil Rights are that we all so treasure.

6 I think that one of the things that
7 makes Copwatch so effective in knowing the rights is
8 that we are visible in the community and people
9 respond to that. I think any campaign, whether it be
10 an auditor's office or the Tucson Police Department
11 themselves, there has to be the visibility that, yes,
12 we are concerned about any and all violations of
13 Civil Rights and we are not going to punish you for
14 talking about it and bringing these concerns to
15 light.

16 I think that many of the people that we
17 run into who don't -- who aren't able to go ahead and
18 follow up and join Liana at her office to file a
19 formal complaint are just afraid to, and it's not a
20 part of their mentality to make a formal complaint.
21 I don't think that we can afford to leave these
22 people out.

23 And I think that -- I fully support --
24 I was involved personally in the efforts to
25 strengthen the police review several years ago here

1 in Tucson, and I think now it's come time to really
2 review what we have. I really think it's absolutely
3 essential that powerful investigative power be added
4 to any kind of civilian review, and that true
5 civilian review has to have the confidence of the
6 entire community. Unfortunately, that's not
7 necessarily the case in Tucson.

8 MR. GATTONE: Any questions from the
9 committee?

10 MR. ZAZUETA: I just want to say this
11 card is very, very nice. I'd like to commend you on
12 it.

13 I think one of the things that I think
14 should be added is this racial profiling definition
15 of the Arizona Civil Liberties Union. I think that's
16 a good definition, and if the police have already
17 accepted it, like she said, that would be excellent.

18 MS. BROCE: We will make that.

19 MR. GATTONE: Any other questions?

20 Thank you.

21 MS. WEBB-VIGNERY: For our court
22 reporter we will take a recess.

23 (Recess.)

24 MR. GATTONE: Call Jose Matus.

25 I want to point one thing out for the

1 record. The next speaker is Jose Matus and Jesus
2 Romo, from the Border Rights Coalition, Derechos
3 Humanos. I wanted to state besides the Tucson Police
4 Department, we also invited the Sheriff, Clarence
5 Dupnik, of Pima County, who declined our invitation,
6 was unable to attend. But also David Aguilar, who is
7 the Sector Chief of Border Patrol, was invited by
8 letter and follow-up phone call, and is not here
9 today.

10 I know that his office told me he was
11 going to be out of town. I suggested an alternative.
12 I want it known for the record that they had been
13 invited.

14 MR. MONTEZ: For the record, could we
15 state the reason given for their failure to appear?

16 MR. GATTONE: I said my understanding
17 was from his -- Aguilar's office, was he was going to
18 be out of town today. That was my understanding.

19 MR. MONTEZ: The Sheriff's reason?

20 MR. GATTONE: I don't believe a reason
21 was given for the Sheriff being unable to attend, not
22 that I recall.

23 Please state your name for the record.

24 MR. MATUS: Jose Matus, Project
25 Director, Derechos Humanos.

1 MR. ROMO: Jesus Romo. I am a member.

2 MR. GATTONE: Okay. Please go ahead.

3 MR. MATUS: Okay. First of all, I
4 would like to say, I am happy to be here this
5 afternoon. Too bad that we are running late here. I
6 do have another commitment, so I'll make my
7 presentation brief.

8 But basically Derechos Humanos is an
9 organization dealing with abuse of -- law enforcement
10 abuse, primarily Border Patrol. The project started
11 back in 1988. Since then they have documented
12 numerous cases of abuses, and we are very concerned
13 with what's going on and the tension on the border
14 that we have today, the problem of private citizens
15 now getting into the act of law enforcement. But at
16 the same time we believe and feel that law
17 enforcement officials in that area, as well as Border
18 Patrol are, in one sense, agreeing with what the
19 private citizens are doing there against the
20 undocumented immigrant.

21 We continue to see the trampling of
22 U.S. law by law enforcement agencies such as Border
23 Patrol. We continue to see people being abused not
24 only in border areas, as well as the urban areas,
25 Tucson, Phoenix, Tohono Nation or Indian

1 reservations.

2 One of the projects that we have under
3 Derechos Humanos deals with the immigration problem
4 of our Native American community. I am member of the
5 Pascua Yaqui Tribe, and also being faced with
6 problems with dealing with Border Patrol.

7 The problems that we see in the urban
8 area in dealing with the immigrant community or
9 people of Mexican, Chicano descent is that here in
10 the school district of Amphi we have complaints from
11 parents that have been harassed by Border Patrol when
12 they pick up their children in the elementary schools
13 here. We have tried to deal with law enforcement
14 agencies, with the Border Patrol, to no avail. They
15 believe that they weren't doing anything wrong.

16 However, there is a case where the
17 court ruled that the public -- it is public interest
18 being served with students and the teachers from
19 undue interference by law enforcement agencies. That
20 is a law case that was proved by the court. And the
21 other situation, the other court case, Pylor versus
22 Doe case, where that court ruled that illegal
23 immigrant children have the right to attend school.

24 But yet the Border Patrol continues to
25 emphasize that they do not pick up children.

1 However, if a parent who is undocumented is where a
2 child is, they will pick up the child as well as the
3 parent. And they say that the reason why they do
4 that is because -- put out another point, is that
5 even though the child may be a U.S. citizen, they
6 will pick up that child and arrest that child with
7 the parent. And that is what they call the family
8 unification situation under the immigration law.

9 So those are the things that have been
10 reported to our office not only here in Tucson,
11 Phoenix, Sunnyslope area, made numerous workshops up
12 there, documented numerous cases where parents were
13 arrested along with children who are U.S. citizen
14 born. Border Patrol says if there is a child, if
15 they are here illegally, we will arrest them.

16 Killings in the area, in the border
17 area, high-speed chases, especially on the Tohono
18 O'Odham Reservation, because they are out in the
19 remote area. They follow -- the Sells Police or the
20 Customs, all three agencies get involved in
21 high-speed chases. People have died in those
22 instances. Border Patrol running over undocumented
23 immigrants in the Douglas area, Border Patrol
24 harassing indigenous people on the reservation just
25 because they live in close proximity to the border

1 and are not able to at times carry their tribal cards
2 or prove that they are U.S. citizens.

3 Those are some of the cases that we
4 have dealt with. We believe that something has to be
5 done. Although Derechos Humanos has been involved
6 with the project out of Texas in dealing with the INS
7 Civilian Advisory Panel a few years, which is no
8 longer in existence today, to recommend various --
9 make recommendations on how to deal with Border
10 Patrol abuses, accountability of the Border Patrol,
11 how to effectively deal with those cases in helping
12 the immigrant community and preventing abuses, but,
13 unfortunately, that Commission is no longer in
14 existence. That's now -- the recommendations we have
15 made, some have been implemented, some have been just
16 thrown out the window.

17 That, in a nutshell, is what we do,
18 what we are concerned about in dealing with the issue
19 of law enforcement abuses in this area.

20 MR. ROMO: My name is Jesus Romo. I'm
21 an attorney, and I testified before your Commission
22 back in 1993 in San Diego. Since then conditions
23 have become lots worse on the border. We have lots
24 of problems. I'll give you some examples.

25 I got a phone call from the Federal

1 Public Defender's yesterday, and they told me that
2 there was an undocumented person picked up by the
3 Border Patrol who had been essentially tortured. The
4 Border Patrolman had slapped him around, picked up a
5 rock, put the hand against another rock, then hit the
6 hand with another rock, and then he took him to jail.

7 There at the prison he was interviewed
8 by the Public Defender, and he called me up and said,
9 we reported this abuse to the judge, the Federal
10 Judge, Federal Magistrate, who asked us to call the
11 Office of the Inspector General. We called the
12 Office of the Inspector General, and the officer who
13 answered the phone said, well, if we are going to
14 have an attorney involved we are not going to
15 investigate it.

16 I called the office this morning and I
17 told them that that would be, in my opinion, against
18 policy, because there has to be an investigation.
19 That's the understanding we have. He said, look, the
20 problem is that we spoke with the Border Patrolman,
21 he told us a different story. We believe the Border
22 Patrolman and we don't have to talk to this young
23 man.

24 And that's the problem that we have,
25 that we have many instances of violations along the

1 border. We got, for instance, people who -- Border
2 Patrolman who had killed people, Border Patrolman who
3 killed his girlfriend, the shot was point blank in
4 the stomach in the middle of the night, and the
5 Office of the Inspector General concluded that it was
6 a suicide. They never prosecuted him.

7 We got another Border Patrolman accused
8 of killing two young men, executing them at the
9 border. Never prosecuted them. We have many
10 instances of abuse along the border. And we consider
11 Tucson part of the border, because this is part of
12 the place where lots of situations like this arise.

13 Now we have private citizens taking up
14 arms against undocumented persons, and we have the
15 Border Patrol essentially working with the private
16 citizens when the private citizens pick up the
17 individuals armed with rifles or pistols. They keep
18 them there for hours until the Border Patrol arrives.
19 Border Patrol picks them up, tells them that they
20 could call the Mexican Consulate, but if they become
21 witnesses they will have to be incarcerated for a
22 period of time until they testify. And the option
23 would be to go back to Mexico. They obviously choose
24 to go back to Mexico.

25 Nobody investigates. Even though

1 there's been many complaints filed with the Attorney
2 General's Office, U.S. Attorney's Office, there is no
3 investigation of violations of Civil Rights. There
4 are plenty of cases that state that vigilantes are
5 involved and the United States has knowledge of that
6 involvement. They have a duty to investigate it.

7 What is going on here is that we have a
8 dilution of the Civil Rights of a large part of the
9 citizenry of the border, and the United States
10 government and the agencies that are in charge of
11 investigating and doing something about it are
12 turning the other way. It is a very dangerous
13 situation, because if we ignore the Constitution of
14 the border, fairly soon the consequences of ignoring
15 the Constitution of the border will be felt
16 everywhere else and, obviously, we are feeling it
17 right now.

18 Because not only do we have
19 undocumented persons who are being systematically
20 abused by the Border Patrol and other agencies, but
21 we also have United States citizens who get picked
22 up, and if they don't respond appropriately they are
23 call pejorative names, they are taken to offices
24 where they strip them for no reason. We have one
25 case right now pending in federal court like that,

1 and abuse in many other ways. So this is a situation
2 that calls for immediate action.

3 We asked -- back in 1993 we told you
4 what was going on. We had a murder and a rape back
5 then, and we got now many other murders, many other
6 instances. And, like I said, things have become a
7 lot worse for the Hispanic and Indian population of
8 this area.

9 Thank you.

10 MR. GATTONE: Any questions from the
11 Committee?

12 MR. MONTEZ: I'm just curious if you
13 can tell us what the relationship is between the
14 immigration department and law enforcement officers
15 in Tucson.

16 MR. ROMO: Well, there is a
17 relationship in terms of what they do. They many
18 times stop individuals on pretext stops, and when
19 they cannot find anything other than to arrest them,
20 they inquire about the citizenship or legal status in
21 the United States. And if they are not satisfied,
22 they call Border Patrol, and Border Patrol generally
23 picks them up and arrests them and takes them in.

24 MR. ZAZUETA: I asked the Chief this
25 morning, Robinson -- afternoon, Chief Robinson, if

1 there was a policy. Have you ever asked for an
2 official policy between the police and the Border
3 Patrol, what the official policy is?

4 MR. ROMO: We have asked for official
5 policies, but beyond the policies that the city may
6 have there is the acts of the individual officers who
7 are -- who many times act on their own. I don't have
8 the official policy probably.

9 MR. ZAZUETA: Chief Robinson said that
10 there was no official policy.

11 MR. ROMO: There is no official policy.
12 Unfortunately, that gives leeway to the individual
13 judgment of the officer. It depends on the officer.
14 Many times they stop them and call Border Patrol.
15 This is true not only of the local city police, but
16 of the sheriff deputies as well.

17 MR. GATTONE: Isabel.

18 MS. GARCIA: Just to further clarify,
19 Mr. Zazueta, I know that I wanted to relay this to
20 Chief Robinson, we didn't have enough time, but we
21 have been meeting with Chiefs of Police or their
22 representatives since I began in 1976. There is a
23 policy that says that if an officer has a reasonable
24 suspicion that the person is here without documents
25 or in violation of the immigration law, that the

1 police officer may detain that person for 20 minutes.

2 We've seen, of course, many violations
3 of that 20-minute rule. And then we've seen the
4 other as well, where officers don't call the Border
5 Patrol, but many times they do call them.

6 The real problem stems from what is a
7 reasonable suspicion, and Chief Robinson alluded to
8 that, too, in the questioning they determine -- well,
9 the only way you can determine is if you get involved
10 in immigration status questioning. And,
11 unfortunately, many people get into the immigration
12 status questioning, and it's not only the police
13 department.

14 Obviously, we're here because of law
15 enforcement, but because of the anti-immigrant
16 legislation that was passed in '96, the whole
17 hysteria against immigrants, it spread out to doctors
18 and business people. And we heard instances from
19 restaurants, restaurant owners were asking customers,
20 what's your status.

21 But our focus here is law enforcement.
22 Our problem is the reasonable suspicion, because what
23 is that. And that's the problem we have had since
24 I've been around since 1976, that we have that
25 problem, what constitutes reasonable suspicion.

1 And usually it's physical appearance,
2 the person speaks Spanish, or their name, something
3 about the physical attributes or linguistic
4 attributes. For the police officers, I think they
5 think that's reasonable suspicion, and that is not.
6 So that's just to clarify that they do have a policy.
7 It's, I believe, still lacking.

8 MR. GATTONE: Other questions?

9 Before we finish, I wanted to note, I
10 guess also for the record, that Mr. Aguilar, the
11 Sector Chief who is not here, was quoted in the paper
12 last week saying that some of the individuals who --
13 private citizens who have held and stopped and
14 detained immigrants at gun point were doing so to
15 rescue them because the people were in trouble.

16 But that's just an interesting point.
17 I thought -- I don't know if the Committee had seen
18 the Tucson paper.

19 But if there's nothing further, thanks
20 very much.

21 MR. GARCIA: I've got one.

22 MR. GATTONE: Wait. There's a question
23 here.

24 MR. GARCIA: Real quickly. Obviously,
25 you mentioned a lot of questions that I think should

1 be addressed, and it just appears that because of the
2 topic that we're covering today with law enforcement,
3 that's kind of our focus, however, I think it would
4 be good, if possible, if you could provide in a
5 written form to the Chairman what it is that some of
6 these allegations are, so that at a future date we
7 can actually maybe pinpoint exactly what you're
8 talking about, which is Border Patrol and the issues
9 related to some of the INS issues, and kind of just
10 address that as a separate issue to make some type of
11 improvement.

12 Appears to me -- I don't know the
13 entire legal issues regarding the Constitution, but
14 even a person not from this country, once they are
15 found in this country, does the Constitution not
16 protect them also in terms of Civil Rights? You
17 know, those are questions that need to be asked for
18 the people that are actually performing the searches
19 and rounding these people up and, you know, abusing
20 individuals by some type of torture or whatever.
21 That's what needs to be substantiated.

22 And, you know, I think just because of
23 the nature of the forum that we have today and
24 hearing, and the scope we are in with law
25 enforcement, we would require some follow-up on our

1 end at a separate time to actually have any impact or
2 do something for you.

3 MR. ROMO: Just briefly, the
4 Constitution protects any person within the United
5 States regardless of legal status within the United
6 States; so there's no distinction made.

7 I just wanted to, I guess, get point of
8 clarification. My understanding of law enforcement
9 is that Border Patrol is a law enforcement agency
10 they certainly consider themselves law enforcement.
11 And the impact -- we live under the shadow of the
12 Border Patrol. We are the community, we are
13 33 percent in this county, of the entire community,
14 and we get constantly followed, stopped, questioned.
15 Our people cannot go to the bus stop, our children
16 cannot speak Spanish because they are questioned.
17 They cannot go to clinics because they are there,
18 they are everywhere.

19 So when we talk about law enforcement,
20 our community, the Mexican American and indigenous
21 community is certainly under the shadow of the Border
22 Patrol, and that is a large part of what we have to
23 deal with on a daily basis in this county and in
24 other counties. We constitute a lot more than
25 33 percent if we are talking about Santa Cruz County,

1 for instance, or Cochise County. We are
2 substantially more there. Yet the Border Patrol is
3 constantly pursuing us.

4 MR. GATTONE: Ramon.

5 MR. PAZ: I think it was either in 1973
6 or '78 that I testified in Nogales on the same issue,
7 on a hearing sponsored by -- at that time I think it
8 was Congressman Udall. And what I'm hearing here is
9 really what I saw back in 1978, then you talk about
10 it in San Diego a few years ago. Here we are talking
11 about the same issue over and over again.

12 The Border Patrol in Arizona has been
13 given a certain privilege, because I think in Arizona
14 the law allows them to go into a house sometimes
15 without a warrant, correct? As a matter of fact,
16 more power than any law enforcement has, more than
17 the Sheriff or anybody else in the State of Arizona.
18 But if we are having this same thing over and over,
19 and now you claim that it's worse, can you identify
20 the problem?

21 MR. ROMO: The problem is that we have
22 a community -- by "community," I mean a system that
23 has accepted that the border area is essentially an
24 area where some violations of Constitutional rights,
25 blatant violations in our view, can be done because

1 we've got an influx of undocumented people and
2 because we have got drugs coming in. And there is a
3 general acceptance of that in the community at large.

4 So when we speak about the problems
5 that we have, essentially saying, well, that's the
6 same thing, just talking about the same problems,
7 people deserve that, or their private property,
8 therefore, they could be stopped, even though the law
9 is contrary to that. There is a general acceptance
10 of that, and that's what the problem is.

11 And we have an agency, the Border
12 Patrol, who has a lot of money that is dedicated to
13 public relations. They do lots of work on the
14 community. One day they advise the community that
15 there is an invasion of undocumented persons through
16 Nogales, another day that there is an invasion
17 through this area, another day that there is a
18 shooting from the border to the United States.

19 And that is really -- we have to be
20 frank. In the eyes of most of the community there is
21 no difference between a Mexican and Mexican American.
22 I mean, they don't distinguish and they don't care
23 about it.

24 So when they taint that community, they
25 taint us all. And so when they stop us, they see

1 that there is, I guess, a public good that will be
2 obtained as a result of the police action. So that's
3 the problem that we have.

4 And we don't have an enforcement arm
5 that will go and do something against those who
6 violate those laws. We got the attitude that -- the
7 Office of Inspector General or the FBI has -- of
8 saying, well, we already spoke with the offender, we
9 don't have to speak with the victim because we don't
10 believe the victim, even though there has never been
11 an interview of that victim.

12 That is the situation that we have here
13 in Pima County, and it will not change. I think it
14 will become a lot worse than it is right now.

15 MR. PAZ: Can you predict what that is,
16 how will it become worse?

17 MR. ROMO: For instance, these people
18 who are now acting as vigilantes, both down in Pima
19 County and Cochise County, have stated that their aim
20 is to have bloodshed on the border. They have stated
21 that openly. And as recently as three weeks ago they
22 stated it in the newspaper that they are willing to
23 kill.

24 Now they have their own agenda. They
25 had a meeting last Saturday in Sierra Vista, these

1 vigilantes, where the KKK passed literature to the
2 people that were present, an openly fascist meeting
3 was held. Someone proposed what they should do is
4 place land mines at the border.

5 This is the kind of mentality and
6 attitude that is being promoted out there, and we
7 don't have an FBI, we don't have an Inspector
8 General's Office, we don't have the U.S. Attorney's
9 Office or anybody who is going to go in and say, wait
10 a minute, you cannot stop someone, you cannot put
11 them on the ground, you cannot shoot someone and
12 violate their Human Rights or Civil Rights without
13 there being some consequences. We don't have
14 anybody.

15 So we are left only with going out to
16 the streets and screaming about it, coming over to
17 you and telling you about it. But, finally, filing a
18 civil lawsuit, that takes years, they are extremely
19 expensive to carry out for people who are indigent
20 and don't have sufficient funds to finance it.
21 That's where we are.

22 MR. MONTEZ: It's obvious that the
23 Federal government isn't doing anything in the area
24 of vigilantes, so just as a suggestion to the
25 Committee, that a letter be prepared to go to

1 Commissioner Meissner (phonetic) and explain some of
2 the things.

3 Do you have any of the literature that
4 has been passed out that we can take that kind of
5 information? I think it's the Commission's
6 responsibility under the signature of the Chair or
7 the Regional Director or whatever, that we write to
8 Commissioner Meissner explaining what we heard today,
9 take as much information, and the Federal government
10 is not doing anything with the FBI or whatever.

11 MR. GATTONE: Also maybe to the U.S.
12 Attorney for Arizona, who has taken somewhat of a
13 wait and see stance.

14 MR. MONTEZ: Okay.

15 MR. ROMO: Attorney General.

16 MR. MONTEZ: Get it to the key people.

17 MS. WEBB-VIGNERY: The Attorney
18 General, too.

19 MR. ROMO: I think the Attorney General
20 is in charge, U.S. Attorney.

21 MR. MONTEZ: When did we do that
22 record, that report here, Richard, on the border?

23 MS. GARCIA: The hearing was April '93,
24 and certain -- this kept it from publication until
25 March of '97. That's when the report actually came

1 out.

2 MR. GATTONE: Could we have those
3 materials submitted for action by the Committee?

4 I think we need to move right now to
5 our next speaker.

6 MR. ZAZUETA: Do we have to make a
7 motion, Madam Chairman?

8 MR. PAZ: I have a point as far as the
9 purpose of the hearing. We are dealing with
10 fact-finding, all of a sudden we are dealing with --
11 I think it's out of order.

12 MR. GATTONE: I think as our
13 fact-finding mission we could have information
14 directed to us, consider it in connection with this
15 report, but as separate for future meetings. Thank
16 you.

17 MR. MATUS: One other item I want to
18 share with you.

19 I got a call from one of our partners
20 in California, and he was asking me if I was aware of
21 a private citizen bill that was introduced by a
22 Senator from Iowa dealing with immigration issues.
23 So that could be one -- I think that this gentleman
24 was saying the government was not doing anything on.
25 They are doing it to have adverse effect on the

1 community of color. If that bill ever passes the
2 Senate, goes to Congress, it's very dangerous.

3 MR. GATTONE: Sure.

4 MR. MATUS: Thank you.

5 MR. GATTONE: Appreciate your time.

6 Can you state your name for us?

7 MS. WARRIOR: Yes. My name is Sharon
8 Warrior. I'm a resident of the South Park
9 neighborhood. I'm not here representing any
10 organization. I'm just a mother concerned about
11 what's going on in my community and in Tucson in
12 general.

13 MR. GATTONE: Okay. Please go ahead.

14 MS. WARRIOR: Good afternoon, everyone.
15 I know it's late. As a matter of fact, I'm running
16 late, but I couldn't miss this opportunity to make
17 more people aware of the problem that we have here in
18 Tucson and in my community.

19 I live in South Park neighborhood, and
20 it has traditionally, it seems, been an area where
21 abuses have occurred unquestioned, and I don't see a
22 lot of consequences. This has been -- I've lived in
23 this neighborhood for roughly 33 years. I'm 39 now,
24 so really I'm coming to you from the standpoint of
25 someone that's been there and have known.

1 I remember hearing instances of abuse
2 by police of my sister and other people in my family
3 when I was a child. One instance happened at the
4 park down the street. The dog catcher hit her car,
5 the police responded, and as this happens in our
6 neighborhood they overly respond, and she was
7 surrounded by a number of police.

8 And her protection at that time,
9 because they didn't want to hear anything she had to
10 say and she was the victim, was that some of my older
11 brothers' friends saw what was going on, they started
12 circling the park. They didn't stop and interfere,
13 but they merely observed in enough numbers, if the
14 police knew something happened, it was going to be
15 more than just one person hurt.

16 It seems that that seems to be the
17 protection our community has when something happens
18 that involves the police. You see grandmothers
19 coming out. This could be late at night, this could
20 be early in the morning, but if someone notices, they
21 may not get involved, but they will observe. And if
22 you get enough people looking at something, it's
23 going to stop where things can go in a different
24 direction. If you have enough people observing
25 what's going on it can deter some things from

1 happening. That's sort of been our protection for
2 these number of years.

3 And I feel really we deserve a little
4 bit more than this. We deserve the same type of
5 service and protection from our police department
6 that other residents in this town enjoy, shall I say,
7 because I think that regardless of where you live or
8 how you look or your age or your gender, you should
9 have equal protection under the law.

10 Regarding the profiling issue, it's
11 almost a way of life in my neighborhood. I've lived
12 in my neighborhood, as I said, a number of years. I
13 live currently right now in the home which my parents
14 purchased, and they left it to me. I love this home,
15 it's humble, but it's mine. And I planned to move
16 away from there a couple years ago. I started making
17 plans, I was telling my coworkers, I'm moving before
18 my child becomes a teenager.

19 Currently, I have a male child, he's
20 five years old. I was concerned if I stay in this
21 neighborhood -- as a mother, my drive and my goal in
22 life is to protect my child, but I cannot protect my
23 child from the police. There's only so far that I
24 can go. I can protect him from getting involved in
25 illegal things going on, I can protect him from --

1 lead him in the right way, I can protect him from a
2 lot of things, but if he's walking down the street
3 and the police so choose to stop him and harass him,
4 there's nothing really I can do about that. At that
5 time that's how I felt, and I planned to move, you
6 know.

7 An incident happened last year, last
8 August, which sort of -- not woke up, but brought a
9 lot of people in our neighborhood into action.
10 Tyrone Johnson, he died while in police custody.

11 And the incident started -- although it
12 didn't happen in our neighborhood, he was a resident
13 of our neighborhood. The whole thing started because
14 of a minor traffic infraction. His car was leaking
15 gas and an undercover police officer happened to be
16 at the same gas station, instead of calling the Fire
17 Department, which would have been my normal response,
18 hey, there's a car over there leaking gas, somebody
19 call for help, the police was called.

20 And, as it turned out, after being
21 involved with the police there, he ran. And when
22 people think, why did he run -- but you have to
23 understand when you live in my neighborhood,
24 especially the young males, you have so much contact
25 with the police that -- you know, you can go a matter

1 of four, five blocks from -- because a lot of my
2 family lives in this neighborhood. I live at 34th,
3 my sister lives on 30th. Between that span of blocks
4 you can get stopped a couple times. Where are you
5 going, what you doing, do you have warrants, do you
6 have drugs.

7 I realize that in our area we do have a
8 problem, you know, in our area, and I applaud the
9 police for doing their job working to take out the
10 drug houses in that area, but I also believe that the
11 police has a responsibility to our residents as well
12 as to everyone else to conduct themselves in a proper
13 manner and just follow the law when they approach the
14 young people in our neighborhood. Everyone in our
15 neighborhood is not a criminal. We have working
16 people, myself, I'm one of them, and working people
17 are harassed, I mean, the teenagers are harassed,
18 especially the young men.

19 And I wasn't surprised when they said
20 Tyrone ran, because after a while you get so tired of
21 being stopped, if you are following peace there's no
22 reason for you to be stopped. When they get into
23 this, well, they look suspicious, because when they
24 can't come up with the reason usually the last thing
25 they came up with, well, you look suspicious. And

1 that gets old after a while.

2 And I have fear, especially with my
3 child. He's five, almost six. After being stopped
4 so many times when you weren't doing anything, what
5 if they panic and run. In my neighborhood it's well
6 known if you run you get a beatdown when they catch
7 you. You are going to get beat down.

8 What if it goes too far, what if it
9 gets out of hand. That was my driving force, moving
10 out of my neighborhood. After what happened to
11 Tyrone I decided, I'm not leaving my neighborhood,
12 not leaving my home I love. I'm going to stand and
13 fight, whatever it takes.

14 And I'm not talking about standing on
15 the side and saying let's go by illegal means or
16 whatever. I'm talking about -- I believe in this
17 country, I believe in the City of Tucson. I believe
18 that if people are made aware that they will do the
19 right thing. I think the right thing has to be done
20 not only in my neighborhood but in Tucson.

21 It's time to put a definition on this
22 suspicious thing, because to me, in my neighborhood,
23 none of the residents in my neighborhood who are --
24 if you are black or Hispanic, you're suspicious,
25 because you can be stopped.

1 I was stopped several years ago. At
2 that time I was working the night shift. I came
3 home -- I stopped and got some videos, sandwiches and
4 stuff, sodas, I'm coming home. At that time I was
5 driving an older model Camaro. You know how small
6 the seats are, not a whole lot of space.

7 I seen the police come up behind me. I
8 turn on my street, I'm thinking somebody is doing
9 something, let me get out of the way so the police
10 can go do whatever they are going to do. Then I see
11 the lights come on. I'm pulling over, they were
12 stopping me. I'm curious, okay, what's up.

13 He comes around, he tells me, you have
14 a taillight that's out. It's like, oh, I didn't
15 know. So he asked me for my registration, tags,
16 everything. I'm giving him my stuff. I have my
17 insurance, I have my driver's license, all this
18 stuff. It seemed like the more stuff I had the more
19 angrier he became.

20 Then here is more cars coming. I'm
21 thinking I just got a taillight out. I get out to
22 look. If someone tells you, oh, this is wrong and
23 you didn't know it was wrong, my thought is to get
24 out and look. I'm looking. Oh, you didn't believe
25 me. It's like, I just wanted to look. It wasn't a

1 big deal to me at that time.

2 But it goes on, more and more police
3 are arriving. I'm starting to get a little nervous,
4 because this is the middle of the night, and it
5 doesn't take like six cars with more than one officer
6 in the car to tell me my taillight is out. I know
7 what happens sometimes. I've heard of incidents
8 where people are taken in the desert, beat up, left,
9 all this other stuff. I'm getting a little concerned
10 still. All my stuff is in order, I'm still not
11 permitted to leave.

12 This is right here in front of my house
13 standing out here, so it's like, well, what's wrong,
14 all of my stuff is here. Oh, well, you looked
15 suspicious. It could have been people crouched down
16 in your car. I got a little car, did you just see
17 there's just one person. I should be free to go in
18 my house or whatever.

19 So it's like, no, no, I'm still here.
20 It goes on. I'm starting to get nervous. My
21 neighbors are looking out. This is the middle of the
22 night, you know. I'm thinking, why don't they let me
23 go. It doesn't take six car loads of police, six
24 cars to tell me that my taillight is out.

25 Then my little brother came around the

1 corner. I thank God he was there. Although I call
2 him my little brother, he's younger than me, he's
3 like six feet, he has friends. All of a sudden it
4 was okay for me to leave.

5 Now it's like, what's wrong with this.
6 That's a bit much. And so I'm getting ready to go, I
7 realize that they gave me the wrong movie. I'm going
8 back to the store and they stop me again. It's like,
9 come on now. The other people down the street is
10 looking at this point. This old lady got out, she's
11 looking.

12 It's like, well, we could have stopped
13 you down there for not stopping when I put my lights
14 on. It's like, as soon as I realized that you were
15 following me, you wanted me to stop, I stopped. If
16 you want to give me a ticket for whatever -- at this
17 point I'm getting angry, because this is a matter of
18 feet, you know.

19 You didn't stop for emergency vehicle.
20 It's like, well, if you are going to give me the
21 ticket, give me the ticket; if not, let me go. He
22 gives me my ticket for my taillight being out, then
23 he let me go.

24 At that point I'm all frustrated, I'm
25 angry. I was a working citizen, I'm getting off

1 work, I'm trying to go home and enjoy myself. My
2 whole mood has been ruined just because he wanted to
3 harass me. It should have just been one person and
4 one police car or two, and give me my ticket and I
5 should have been on my way. I shouldn't have been
6 subject to worrying, wonder what's going to happen as
7 more and more of those police pack up. I already
8 know what happens in my neighborhood. I'm a bit
9 concerned, and that wasn't necessary.

10 I complained about it. I didn't hear
11 anything else being done about it. Still, that was
12 unnecessary. I think those type of behavior --

13 And we had a meeting with -- I believe
14 it was Chief Miranda in September. I brought up that
15 incident and other incidents. He was saying they
16 could have been trying to stop to make sure you were
17 okay, because they tend to stop young people to make
18 sure -- see why they are out. I asked them -- well,
19 I appreciate the compliment, but by no stretch of the
20 imagination could I pass for anybody's teenager for
21 being out that late.

22 So I think the excuses that they come
23 up with need to be challenged. I think the
24 definition of suspicion should be challenged and
25 defined specifically. It shouldn't just be, well,

1 you're younger, male, you're black, or in my case a
2 black female. I mean, I really think somebody should
3 take notice and try to make a change of some sort.

4 I've also met with Captain Vogel in our
5 area, and after the Tyrone incident, as I said, our
6 neighborhood became active. The leaders in our
7 community, in our church, got together and we did
8 a -- we found out about Liana's office and the
9 avenues available.

10 A lot of people didn't know until then
11 that the Office of the Independent Auditor existed.
12 I think perhaps, especially if it's a city-sponsored
13 office, perhaps they could do a few ads or something,
14 let people know what's out there. Because I had no
15 idea that they had this available, of people's
16 complaints with people. You go to their Internal
17 Affairs, all this, nothing happens.

18 Some things are so ridiculous. I had a
19 nephew who had an accident, broke his leg. Something
20 happened in the neighborhood. He's being home
21 schooled. At this point I was taking care of my
22 mother -- she's passed away at this time, but I was
23 at home, so my brother was working, I took care of
24 him, my nephew. He met his teacher there, his
25 teacher left because he was being home schooled. We

1 see the police go by, we're not thinking anything of
2 it. She's getting ready to go, so he walks home. He
3 lives down the street. All of a sudden the police
4 swarms over him.

5 This is a young man with a broken leg
6 cast on crutches and they swarm on him. So his
7 teacher and I walked down there. What's going on.
8 Oh, well, something happened over here and he looked
9 suspicious. It's like, come on, unless the person
10 had a description of cast and crutches, it was
11 obviously not this person.

12 I think the police should be held more
13 accountable. If, say, something happens somewhere,
14 they want to stop you, at least you got to at least
15 fit the description some way.

16 MR. GATTONE: Thanks very much, Sharon.
17 We appreciate your time.

18 MS. WARRIOR: Okay. Thank you.

19 MR. GATTONE: Sharon, did you have a
20 chance to talk to any staff people? You have some
21 specific instances.

22 Should she speak to staff before she
23 leaves?

24 MS. GARCIA: She should write them
25 perhaps to the Committee.

1 MR. GATTONE: If you could submit any
2 of these thoughts or instances to the Committee for
3 our consideration when we put the report together, we
4 would really appreciate it.

5 MS. WEBB-VIGNERY: We need something
6 written.

7 MR. GATTONE: If you have the
8 opportunity to put any of this in writing, we would
9 really appreciate it.

10 MS. WARRIOR: Yes.

11 MR. MONTEZ: I'll give you a card.

12 MR. GATTONE: Thanks for your time.

13 MS. WARRIOR: Other information from
14 other people in our neighborhood or are you
15 interested in my experience? This is just a tip of
16 what's going on.

17 MR. GATTONE: Please, we would like
18 that very much.

19 MS. WARRIOR: I'm not exactly in the
20 target population, because you really got to be young
21 and male to appreciate what's going on in my
22 neighborhood.

23 MR. GATTONE: We'd like that very much.

24 MR. GARCIA: Can I ask a question?

25 MS. GARCIA: We don't have time.

1 MR. GATTONE: Susan.

2 MS. WARRIOR: Just one other thing
3 which I neglected to mention.

4 We have been working with Captain
5 Vogel, she's the Commander for the south side, and
6 since -- in the last six months we have saw an
7 improvement. I'm really encouraged about that,
8 because I think she is committed to change.

9 But I can't really get too excited
10 about it. As I said, this is coming from 30
11 something years of abuse to change in the last six
12 months. So I still think there's deeper issues that
13 should be looked at by the powers that be. I
14 sincerely hope and appreciate that you guys could try
15 to do something about it, not just for my
16 neighborhood, but for Tucson in general.

17 MR. GATTONE: Thank you, Sharon. Thank
18 you for your patience.

19 Susan, sorry about the delay. Could
20 you state your name for us, please?

21 MS. KETTLEWELL: I am Susan Kettlewell,
22 and I am the Pima County Public Defender. Just as a
23 little background, I've been a Public Defender for
24 almost 21 years, and I've been the Pima County Public
25 Defender for almost 11 years.

1 In anticipation of this afternoon's
2 hearing I've been trying to get information from many
3 of my attorneys. I've been out of the loop, so to
4 speak, in terms of trying cases on a day-to-day
5 basis. However, this morning I met with several of
6 my attorneys. In less than an hour's time they came
7 up with several examples of the types of issues that
8 our clients face on a day-to-day basis.

9 We represent clients who are indigent.
10 85 percent of the people in Pima County, I think most
11 of the state, are determined to be indigent. Our
12 clients, because they are indigent, also, obviously,
13 their socioeconomic status, is amongst the lower
14 echelon, and many of our clients are from minority
15 groups.

16 Q.e of the things I think is telling of
17 the situation and the mentality, unfortunately, of
18 our children -- and I'd like to start there. I was
19 told about one incident one of our attorneys -- not
20 in the capacity as an attorney, just as an
21 individual, was on the south side at a friend's house
22 near Wakefield Junior High, 2:30 in the afternoon
23 when school got out. As school got out about a dozen
24 13-year-old boys were walking home from school down
25 an alley and just -- not doing anything out of line,

1 just walking home from school.

2 Our attorney could hear a police radio
3 go on, so he kind of looked out over the back alley
4 wall and could see a police cruiser coming from one
5 end of the alley, then another police cruiser coming
6 from the other end of the alley. And as they
7 stopped, these young boys just immediately began to
8 take everything out of their pockets and put it on
9 the police car and put themselves in the stance for
10 the police.

11 This was something that they just
12 automatically did without being asked to by the
13 police, without being told that there was any
14 situation. But I think that just kind of dovetails
15 with what the previous speaker indicated is the
16 pervasiveness of the police presence in some of our
17 neighborhoods.

18 The last few years I have filled in at
19 our juvenile office -- I started my career at the
20 Pima County Juvenile Division of the Public
21 Defender's Office 21 years ago, and at that time I
22 noted that we had so many children coming from the
23 barrios because there were more police officers in
24 the barrios and the children would be arrested in
25 those areas because there were more police there to

1 arrest them, to watch them and to come up with things
2 to arrest children for. Things as insignificant,
3 even 20 years ago, as a minor consuming alcohol in
4 the park. That was not happening in the Tanque Verde
5 School District, it was not happening in the
6 Foothills areas of our town, even though there's no
7 question that children were doing those things in
8 those areas of our town. So I believe that the
9 police presence, unfortunately, is just the beginning
10 of what becomes a vicious spiral in terms of the
11 entire criminal justice system.

12 This morning, just as a test for this
13 afternoon, I stopped in at each courtroom, Superior
14 courtroom where we have adults. What they do if a
15 client's in custody, they bring them in, they sit in
16 a special area until their case is called. Fifteen
17 out of the 19 individuals who were in custody this
18 morning were minority group members. So
19 three-quarters -- more than three-quarters were
20 minority individuals. And of those, many of them
21 were young. One woman, she was also a minority group
22 member. That, again, dovetailed with what some of
23 the previous speakers indicated.

24 I currently have a juvenile caseload.
25 Half of those children are minority group members,

1 even though our community is not represented by half
2 minority group citizenship. So I bring those things.

3 They are not specific incidents of
4 things that have happened with police. I think they
5 give an overview of what, unfortunately, happens.
6 Those children obtain police contacts, obtain police
7 records, they are then treated more harsh, in a more
8 stringent manner by the Juvenile Court system. They
9 then have a Juvenile Court record. If they come into
10 the adult system, they have more referrals to the
11 juvenile system, they are treated completely
12 different by our County Attorney's Office.

13 It begins the cycle. Who do we choose
14 to stop, who do we choose then to arrest, what do we
15 choose to -- do we choose, by the County Attorney's
16 Office, to charge them or not. If we choose to
17 charge them, what are we going to charge them with,
18 what are we going to do once they hit the court.

19 This morning one of the attorneys came
20 up with a cartoon, a little bit out of line from what
21 you folks are looking at. I've got several copies of
22 it, but it says, let me consult our mandatory
23 sentencing guidelines. It's a young black boy,
24 really, looks like an African American boy, there's a
25 color chart as opposed to anything else. It's

1 basically the darker the color the more time that the
2 child gets.

3 Those are the kinds of things that --
4 this may look like a joke to many people. I'm sure
5 it was on the editorial page. I think anyone who has
6 practiced criminal law knows that this has real
7 relevance.

8 In terms of specific cases, I guess I
9 would have to say in my experience as a criminal
10 defense attorney, I believe that perhaps the out and
11 out physical abuses, things of that nature that we
12 perhaps saw before I even came to law school, perhaps
13 made some of us become lawyers, are not as prevalent.
14 We still have the subtle violations of Human Rights
15 and Civil Rights.

16 Less than five years -- I'm sorry I
17 can't put a more definitive date on it, I'm certain I
18 could get this. We had several attorneys that
19 started to question both the Legal Defender's Office
20 and the Pima County Public Defender's Office, two
21 particular officers, perhaps three, on the south side
22 of Tucson had determined that a good way to arrest
23 people for drug conviction was to stop individuals
24 for traffic violations, or things of that nature, and
25 then it seemed appropriate that they would place

1 scotch tape under the noses of these people that they
2 had stopped, and if there was a presence of cocaine
3 when they took the tape off they would charge these
4 people with ingesting cocaine, therefore, felony
5 offense. They would be arrested, taken into custody.
6 Of course, once they were arrested, then that gave
7 them speed to go ahead to search them, perhaps find
8 drugs and go further with the arrest.

9 All of those individuals that they
10 chose to use that practice on were Hispanic or black.
11 And all of those took place on the south side, with
12 the exception of three such arrests which were
13 conducted by one of those officers. But those three
14 arrests that did happen to occur on the east side
15 were of Hispanic individuals once again.

16 Currently, I think another example that
17 is probably not a secret to anyone here, but recently
18 in the paper we've seen allegations of misconduct by
19 a member of the Pima County Attorney's Office. It
20 becomes difficult to separate police activity from
21 some other activity that happens afterwards. The sum
22 and substance of that activity is that a Tucson
23 Police Department detective in a death penalty case
24 perjured himself before a jury, which resulted in the
25 conviction of three individuals for first-degree

1 murder, all three of whom were sentenced to death.

2 Fortunately, for two of those
3 individuals their convictions were overturned. When
4 one of them had a second trial he was found not
5 guilty and was acquitted, based in large part on the
6 fact that his attorney was able to establish that
7 this key officer had perjured himself in the
8 gathering of evidence and in the testimony that he
9 presented in the first trial, as well as what he had
10 he attempted to do in the second trial. That is a
11 specific instance of police misconduct.

12 I think one of the attorneys that I
13 spoke to this morning said it very well, and I think
14 one of the things -- that if we try to hold up our
15 police officers as individuals who we should respect,
16 who the children should respect, but, unfortunately,
17 the police who are violent toward our children begets
18 violence, unfortunately.

19 I think one of the people put it very
20 well. They said our children and teenagers want to
21 have power, they want to have control, they want to
22 be power individuals, and if they observe people who
23 are in control and who have that power, and those
24 would be our police officers who we give such great
25 power to, are violent, our children will emulate

1 them, they will become more violent.

2 I think the subtle things that -- I
3 hope I'm not rambling too much. I brought along a
4 transcript, again, one of our attorneys came up with
5 this morning. This is a transcript from a case --
6 Sheriff's Department case. However, this was a young
7 man or boy, 17 years old --

8 MR. GATTONE: Don't use specific
9 officers.

10 MS. KETTLEWELL: I won't. I won't use
11 the client's name.

12 But it was a Sheriff's Department case.
13 This young man was charged essentially with sexual
14 conduct with a minor, which is -- or child
15 molestation. Range of sentence for these crimes
16 would be 10 to 27 years, and a mandatory prison time
17 case.

18 This young man, 17 years of age,
19 apparently had a nine, ten-year-old little girl touch
20 his penis. Nonetheless, the officer who is
21 interviewing this boy -- the entire interview took an
22 hour-and-a-half. It started at almost 8:00 o'clock
23 at night. Fifteen minutes -- 15 pages into the
24 interview the officer begins to tell this young
25 man -- describing child molesters, essentially he

1 goes, there are people that go out there and prey on
2 children, they go find children and they get them to
3 do what they want to do, they go out and they stop
4 these children. Then there are other people who just
5 can't help themselves. These are people who just
6 need help. It's just avoidable as long as they get
7 help and they come forward and they stand up and they
8 say, yes, I did it, I screwed up.

9 This is what the police officer is
10 telling this 17-year-old. This young boy is saying,
11 yeah, yeah, all along he has denied that anything
12 happened.

13 And so the officer then says, those are
14 the people that can get on with their lives when
15 something like that happens. Now, if they tell me
16 that something happened, I know it happened, then
17 that person -- then they can get help. If that
18 person sits there and lies to my face, looks me in
19 the eye and tells me -- it makes me think that they
20 are the ones sitting around premeditating.

21 The child says, yes, I understand.

22 And they are planning -- it goes on to
23 say, my job is to get people -- he keeps telling the
24 child, my job is to get you help.

25 He's got a little boy, 17, I swear to

1 God, I never did anything like that.

2 The officer, you know what that means
3 when you swear to God?

4 What, says the child.

5 Nothing. He -- this goes on and on for
6 30 some pages.

7 He says, until I find out the truth
8 about what happened and why we are here, we are just
9 going to sit here. At one point in the -- I just
10 drank a 44-ounce ice tea, I'm going to be up all
11 night, anyway. We are going to sit here until you
12 tell me the truth.

13 It goes on and on with this. The sad
14 thing is, I need to help you, you need to help me.
15 As it stands right now you're not giving me what I
16 need to get you help. You're giving me what I need
17 to drive you to jail.

18 Ultimately -- this goes on for another
19 15 pages, and the boy ultimately admits that he did
20 something with this girl. But this is not an
21 isolated situation. We get reports like this every
22 day of the week where these kinds of tactics are used
23 by the police.

24 Is it illegal in the sense of the law,
25 is it necessarily going to be thrown out in terms of

1 a motion to suppress? Maybe yes, maybe no.

2 But this is a situation where we have
3 gotten the case, they think they have got the proof.
4 What concerns me is how many of these don't we see.
5 How many of these are out there where people are
6 being questioned by the police where tactics are
7 being used similar to these tactics where nothing
8 ever happens, then because there are no charges to be
9 brought they can't in any way, shape or form
10 substantiate them. Nonetheless, someone has been
11 subjected to this type of routine for X amount of
12 time. In this case it was an hour and-a-half. The
13 young man was out of there at about 11:30 at night.

14 I think it's important to note that
15 although we see these kinds of things, we see things
16 that are much more serious, we see overreactions by
17 the police.

18 I had a client last week who is a
19 Guatemalan refugee, here on political asylum, he's on
20 probation for a minor drug offense. His probation
21 officer came to his home, found a small amount of
22 cocaine in his home. The police were then called.
23 According to my client, the police completely
24 obliterated his apartment trying to find more
25 cocaine. This was the situation where it was just a

1 minuscule amount of cocaine in a small paper that
2 they found in his pocket or the pocket of a friend.
3 Nonetheless, they tore up his entire home.

4 He asked me -- he said, can I file --
5 something needs to be done. This is a violation of
6 my rights. This is a Guatemalan refugee who is here
7 with asylum who knows violations of Human Rights. I
8 said, you know -- this is the advice we give our
9 clients every day. You need to wait until your case
10 is over. You need to wait until they aren't looking
11 at you anymore, because you have reason to fear
12 retaliation.

13 And in speaking with the attorneys in
14 my office this morning there was no question, that's
15 the advice we all give our clients, because once the
16 police activity takes place there is so much
17 discretion after that whether a case is filed, how
18 it's filed, what the nature of the charges are. To
19 put yourself in -- to put the spotlight on yourself
20 by filing an Internal Affairs complaint serves no
21 purpose. And how many of these cases ever are
22 pursued is debatable.

23 In that regard, one of our attorneys
24 was saying that he recently learned of an Internal
25 Affairs complaint filed by a criminal defense

1 attorney who also does civil practice. That criminal
2 defense attorney had attained a case, east side
3 client who had come to him to file a civil suit
4 against the police. As part of the Internal Affairs
5 record the officer had said, I just don't get it, if
6 this had happened on the south side no one ever would
7 have complained. I believe that that is absolutely
8 the case.

9 I don't have much more to say, but I
10 would like to point out, I think the idea of having
11 the Police Advisory Board is an excellent idea. I
12 think the idea of review boards such as this is an
13 excellent idea.

14 I think we need to look at where we are
15 placing our police, what the nature of their presence
16 is. Because we talked about that this morning, you
17 know, on the one hand put more police in the area,
18 perhaps those individuals feel safer. If we put the
19 wrong officer -- we need to put our most
20 compassionate, our best officers in the most
21 difficult areas. We need to put the people who know
22 the difference between criminal activity and child
23 activity, or what we used to just dismiss as
24 growing-up activity.

25 But I do think it's important to point

1 out -- and, again, this is not anything original.
2 These are all things other attorneys in my office
3 asked me to talk about.

4 I think the telling thing in the Police
5 Advisory -- they have a nice little pamphlet put out
6 by the Office of the Independent Police Auditor, but
7 the most significant thing on here is the paragraph
8 that says: You have the right to file a complaint;
9 however, it is against the law for an individual to
10 knowingly file a false complaint and it is the policy
11 of the Tucson Police Department to pursue criminal
12 prosecution in accordance with Arizona law in all
13 instances where a false complaint is made.

14 I mean, people do not complain, and I
15 think, you know, there aren't a whole lot of people
16 here today, in part -- the people who need to be
17 here, probably wanted to be here, are probably scared
18 to death to be here.

19 So that would be just about everything
20 I think that I wanted to tell you about. I'm sorry I
21 don't have more specific -- I think those examples I
22 brought forward, unfortunately, in our community,
23 criminal defense community, we believe there are
24 ongoing abuses. We believe that -- no, you can't see
25 the bruises, you can't see the bumps many times

1 anymore, but the types of things that I have talked
2 about happen. There is perjury, there is
3 misstatement by the police officers, there are false
4 statements being made to people, there are coerced
5 confessions, and there is selective arrests,
6 prosecution and charging throughout our community.

7 MR. GATTONE: Any questions?

8 Thank you, Susan. We appreciate your
9 time.

10 MR. ZAZUETA: I have one.

11 MR. GATTONE: Richard.

12 MR. ZAZUETA: You mentioned a vicious
13 cycle that goes on with minorities, especially with
14 minorities in all the courts.

15 Do you have any idea as to how to stop
16 this vicious cycle?

17 MS. KETTLEWELL: Well, I do think that
18 we need to be -- we need to treat everyone the same.
19 You know, I do believe that had -- you know, I firmly
20 believe that a child who lives in an advantaged
21 neighborhood is not going to be physically arrested,
22 taken to Juvenile Court for the same infractions that
23 a child in a disadvantaged neighborhood, never mind
24 his color, is going to be arrested for.

25 I think we need to have some

1 perspective. Unfortunately, what happens is a
2 reflection of what happens in our society. It's
3 wrong. I think they think people could lock up the
4 kid and throw away the key for spitting on the
5 sidewalk if they thought they could.

6 I think we need to have police officers
7 who are not only trained in protecting the safety,
8 serve and protect, but also to identify, you know,
9 problematic behaviors that are not necessarily --
10 that don't have to be labeled crimes, don't have to
11 be labeled delinquent activity, but have other ways
12 of dealing with things without arresting children and
13 giving them a criminal record, which then follows
14 them for the rest of their life.

15 By children, I really think we see --
16 I'm certain that any other -- Isabel is a criminal
17 defense attorney. The number of clients that are
18 under the age of 24, 25 years old is significant. I
19 mean, we are dealing with the youth of our community.

20 So I think we have to treat everyone
21 the same. I think we have to train our police
22 officers to have some compassion. And, frankly, it's
23 not just a police problem. We have to have other
24 resources. If there are children who don't have
25 supervision in the home, are out in the streets

1 getting themselves into situations that we would hope
2 they wouldn't get themselves into, we have to have
3 resources for them that are above and beyond just
4 taking them down to Juvenile Court and locking them
5 up. There are a lot of children that are in those
6 circumstances, unfortunately.

7 The number of clients coming through
8 Juvenile Court now compared to 20 years ago, one or
9 both of their parents are in prison, have been in
10 prison, or has a prison record. It's an incredibly
11 vicious cycle, just perpetuates itself.

12 MR. GATTONE: Any other questions?

13 Thank you, Susan.

14 MS. KETTLEWELL: Thank you.

15 MR. PAZ: Just one.

16 MR. GATTONE: You guys keep doing that
17 to me.

18 MR. PAZ: Like the other question,
19 people are requesting more funding for police
20 officers, like they are requesting more Border
21 Patrolman coming in and all that. That's not the
22 answer.

23 MS. KETTLEWELL: No, it's clearly not
24 the answer. I think -- you know, before I went to
25 law school I was a sociology major, bread lines,

1 whatever. But we spend so much money on law
2 enforcement and on fixing it at the end where it's
3 maybe perhaps already too late, putting so much money
4 into police officers, so much money into prisons, so
5 much money into corrections facilities. For the cost
6 of one -- it costs us anywhere, depending on whose
7 figures you listen to, from 20 to \$35,000 a year to
8 put someone in prison or a juvenile facility for a
9 year. We could pay for one teacher or one full-time
10 counselor who would only have to supervise two
11 children for a whole year for the amount of money it
12 would cost to put the child in prison.

13 So, I mean, frankly, I think -- I wish
14 we could stop the clock, turn it back, start all over
15 again where we are putting our resources.

16 Unfortunately, that goes way beyond the police. If
17 someone would stop -- for every police officer we
18 hire, why don't we hire another teacher or another
19 counselor or another -- fund another social service.
20 For every dollar we put into police, how about we
21 fund a social service agency that's going to assist
22 the children, because that's where it starts.

23 Thank you.

24 MS. WEBB-VIGNERY: We have come to the
25 open session part of our hearing, and we have Judith

1 Bernal. Could you come up and take a take a seat?

2 And while you're coming up, the open
3 session people who are testifying have five minutes,
4 and then we will open it up to questions from the
5 panel.

6 MS. BERNAL: My name is Judith Bernal.
7 I'm a 40-year resident of Tucson, the parent of four,
8 my race is undetermined. And that is relevant to
9 this situation. I'm adopted. My husband is Chicano
10 and Yaqui.

11 What I wanted you to know, we really
12 have selective enforcement here. I wanted to let you
13 know in 1995 I successfully sued the Tucson Police
14 Department. Not many people successfully sue them.
15 That was a case where the Chief's wife was a witness,
16 so they couldn't not acknowledge it.

17 My husband had a gun put to his head
18 and was threatened with death for an unsafe turn in
19 front of our children at the elementary school. When
20 she alluded to retaliation, I can't tell you
21 enough -- if you sue the police you need to get
22 enough money to leave town. We settled for \$5,000.
23 Weren't looking for money.

24 Since then a series of events have
25 occurred that left me with the concept that there is

1 no law enforcement here. Sitting here today I'm
2 struck by how many people are so concerned with Civil
3 Rights for people from other countries but not for
4 Chicano youth in this country. I would remind you,
5 Mexico has no Civil Rights. That's why those people
6 are coming here.

7 Two weeks ago my child was beaten by
8 the SWAT team. What is interesting about this
9 particular beating -- I want you to know how it went
10 down. My little girl, who is 12, and her friend, who
11 is a tribal member, had gone to a performance,
12 folklorico performance, come home -- this was all
13 with my permission. This family is a nice family,
14 they have an uncle that sells drugs, okay.

15 Salina and Sabrina get back. My son,
16 Luciano, knew I would be picking her up, there he was
17 standing in front of their house. The girls ran
18 across the street to a birthday party. When the SWAT
19 came five tear gas canisters were fired. What
20 happened to my son, since he was another way, so to
21 speak -- they didn't charge him, by the way, he was
22 in the wrong place at the wrong time.

23 They got him on the ground and kept
24 kicking the hell out of him in the stomach bad enough
25 they had to call an ambulance. When they pulled him

1 over, discovered that he had his jaw wired shut from
2 a previous injury and he was choking, they got
3 alarmed.

4 What I want you to know is that,
5 according to SWAT protocol, prior to a raid you're
6 supposed to surveil the house so you don't kill the
7 pizza man or Jehovah's Witness. What I want you to
8 know, the dope man who had the warrants for the drugs
9 walked out of the house three minutes prior to the
10 raid, walked around the corner to a coworker of the
11 Chief's wife and was eating tamales while my son was
12 getting the hell beat out of him.

13 You could understand why I did file a
14 claim this time. I'm not after money. I'm after
15 justice. It costs a lot more than money.

16 What we have in this community -- I
17 keep hearing this word Hispanic. I know very few
18 Hispanics in this community. Mexican, Mexican
19 American, Chicano, those are bad words in this
20 community. Another thing that has hurt us, we were
21 complaining of Hispanic officers, and along with
22 culture, food, a lot of other things, we have
23 imported another thing in the Hispanic -- the
24 so-called Hispanic community, that's police
25 corruption and acceptance of it.

1 I am viewed as a very bad woman for
2 daring to question authority. Unfortunately, my
3 father was an engineer for NASA, I was adopted, I was
4 raised middle class. I thought I had Civil Rights
5 until I married a Chicano and moved to the west side
6 of town. We were driven out of the home that our
7 boys were born in, a hundred-year-old home, we worked
8 like dogs on it.

9 We were so sickened by another event I
10 don't know that I have time to let you know. What I
11 want you to know, in 1997 we were victims and
12 witnesses to a violent gang crime involving Tek 9
13 automatic weapons. We prosecuted those people and
14 the TPD refused to do anything. They assigned a
15 detective to the case. I brought the court case.
16 This detective, it's under testimony, walked into our
17 house, said hi, I'm Detective so-and-so, I'm from
18 Barrio Hollywood and proud of it. If you are lying,
19 I'll put you in jail.

20 She proceeded to warn one of the gang
21 members to leave town. I had to go to the FBI to get
22 a prosecution. In the meantime, one of my children
23 was beaten and cost a thousand dollars in hospital
24 bills for curfew. And another Barrio Hollywood cop
25 arrested my 11-year-old son for assault for yanking

1 on a backpack.

2 When Susan's talking about
3 criminalization of minority youth, you have got to
4 understand that what they are doing to our children
5 is they are coming into the barrios, charging them
6 with ridiculously serious crimes, or even minor
7 crimes, and you get in the system.

8 It cost me several thousand dollars for
9 Emiliano's crimes. He was found not guilty of
10 assault and guilty of threats and intimidation --
11 that's a RICO charge -- for uttering the statement,
12 "I'll see you at the bus stop," to a girl that
13 weighed a hundred pounds more than he did.

14 They used their cronies, used gang
15 members after us. What I want you to know, what you
16 should be asking yourself today is why did SWAT let
17 the dope man walk away and beat my kid up. I'll tell
18 you why. They want the next generation hooked.

19 Make no mistake what's going on in this
20 community, and however you feel about illegal
21 immigration, there's a lot of drugs here. We don't
22 have a gang problem, we have a drug problem.

23 And I'll leave you with this. This
24 community and this police department thinks the word
25 Chicano means gang member. And five minutes doesn't

1 even do it justice. I have risked my life, I've been
2 threatened by the dope lady, and it just does not
3 end. But you have got to ask yourself why this
4 constant retaliation against my family.

5 And when I went to the Police Advisory
6 Board, which is stocked with police lovers, I had one
7 of them tell me, no, we were the dope people. You
8 can't fight these people. What's going on is
9 Hispanic officer corruption. We have an acceptance
10 in the Hispanic officers of police corruption. It's
11 the good old boys, south side of Chicago or south
12 side of Hermosillo mentality.

13 If you want to complain about the
14 police in this town, you better get the hell out
15 afterwards. I risked my life. I don't know if I'll
16 be quoted in the paper, I hope not, but you ask
17 yourself why my son had the hell kicked out of him
18 while the guy they were looking for literally walked
19 around the corner to a lady's house who is his tia,
20 but she works at the school.

21 Why didn't they arrest him, why?
22 Because Hispanic officers have a history of
23 antagonism toward Native Americans, and what they
24 call half-breeds, Chicanos. Yes, it's true.

25 I will be back tomorrow where I will

1 share with you the fact at my children's school they
2 are given forms that say white, nonwhite, pick your
3 school. We were told Hispanics are white but
4 Chicanos are not. That school is where the Chief's
5 wife teaches. Racial profiling in the police, it
6 starts in our schools.

7 Thank you.

8 MR. GATTONE: Thank you. I think what
9 we are scheduled -- go ahead, please.

10 MS. WEBB-VIGNERY: I want to thank
11 everyone for attending today.

12 We'll call this as a temporary
13 adjournment and we will reconvene tomorrow afternoon
14 at 1:00 o'clock to continue with the education
15 portion of our hearings. I'll see you tomorrow at
16 1:00.

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C E R T I F I C A T E

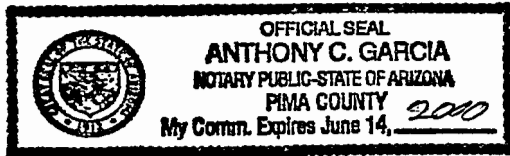
STATE OF ARIZONA)
) ss.
COUNTY OF PIMA)

I, ANTHONY C. GARCIA, a Notary Public duly
commissioned under the laws of the State of Arizona,
in and for the County of Pima, do hereby certify that
I took down in shorthand the proceedings had; and that
the foregoing is a full, true and correct transcript
of said proceedings.

WITNESS MY HAND AND SEAL at Tucson, Arizona
on this 5th day of June 2000.

Anthony C. Garcia

ANTHONY C. GARCIA



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