

U.S. COMMISSION ON CIVIL RIGHTS

+ + + + +

COMMISSION MEETING

+ + + + +

FRIDAY

**UNEDITED**

JULY 19, 2002

+ + + + +

DETROIT, MICHIGAN

+ + + + +

The Commission convened at 9:15 a.m., in the OMNI Detroit River Place Hotel, 1000 River Place, Detroit, Michigan, Chairperson Mary Frances Berry, Presiding.

Present:

- MARY FRANCES BERRY, CHAIRPERSON
- CRUZ REYNOSO, VICE CHAIRPERSON
- JENNIFER C. BRACERAS, COMMISSIONER
- CHRISTOPHER EDLEY, JR., COMMISSIONER
- ELSIE M. MEEKS, COMMISSIONER
- ABIGAIL THERNSTROM, COMMISSIONER

LESLIE R. JIN, STAFF DIRECTOR

Staff Present:

- KIMBERLEY ALTON
- DEBRA CARR, Deputy General Counsel
- IVY DAVIS
- TERRI DICKERSON (Via Telephone)
- BETTY EDMISTON
- SHELDON FULLER
- GEORGE M. HARBISON (Via Telephone)
- JENNY PARK
- PETER REILLY, Parliamentarian
- JOYCE SMITH (Via Telephone)
- AUDREY WRIGHT

ORIGINAL

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

Commissioner Assistants Present:

LAURA BATIE  
PATRICK DUFFY  
KIMBERLY SCHULD

I-N-D-E-X

I. Approval of Agenda ..... 4

II. Approval of Minutes of  
June 21, 2002 Meeting ..... 9

III. Announcements ..... 10

IV. Staff Director's Report ..... 12

V. State Advisory Committee Appointments for  
Florida and Kentucky ..... 31

VI. Discussion of the statutory report, "Ten-Year  
Check-Up: Have Federal Agencies  
Responded to Civil Rights Directives?," ..... 34

VII. Discussion of staff report and recommendations  
on the civil rights implications of  
welfare reauthorization ..... 57

VIII. Presentations from Midwest Regional SAC members  
on post-9/11 and other civil rights  
issues in their states, and by individuals  
and organizational representatives on  
post-9/11 issues affect Arab and Muslim  
Americans in Michigan and the midwestern  
region ..... 100

IX. Adjournment ..... 200

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

P-R-O-C-E-E-D-I-N-G-S

9:15 a.m.

I. Approval of Agenda

CHAIRPERSON BERRY: The first item on the agenda is the approval of the agenda. Could I get a motion to approve the agenda?

COMMISSIONER KIRSANOW: So moved.

CHAIRPERSON BERRY: Could I get a second?

MS. DICKERSON: Excuse me for interrupting. This is Washington, D.C. and we are having a lot of trouble hearing.

CHAIRPERSON BERRY: Could you hear me?

MS. DICKERSON: Just faintly.

CHAIRPERSON BERRY: Can you hear me now?

MS. DICKERSON: A little better and we couldn't hear the other speaker at all.

CHAIRPERSON BERRY: Can you hear me now?

MS. DICKERSON: We can hear.

CHAIRPERSON BERRY: So that means that I don't put it right up to my mouth, I just sort of -- okay. So you can hear me now?

MS. DICKERSON: Yes.

CHAIRPERSON BERRY: So maybe Commissioner Kirsanow, can try like to putting it about where mine is and see what happens.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER KIRSANOW: Can you hear me?  
2 This is like a Verizon commercial.

3 (Laughter.)

4 CHAIRPERSON BERRY: Go ahead.

5 COMMISSIONER KIRSANOW: Madam Chair, I'd  
6 like to move that we include in the agenda discussion  
7 or reports from the Staff Director on the current  
8 status of the Monroij litigation or administrative  
9 proceedings.

10 CHAIRPERSON BERRY: You have heard the  
11 suggestion. Is there any discussion of it?

12 COMMISSIONER MEEKS: I seconded it, by the  
13 way.

14 COMMISSIONER BRACERAS: Commissioner  
15 Berry, this is Jennifer, can you hear me?

16 CHAIRPERSON BERRY: yes.

17 COMMISSIONER BRACERAS: Could you all turn  
18 it up on your end a little bit? We can't hear the  
19 person in the background that's speaking now.

20 CHAIRPERSON BERRY: Okay, but you hear me?

21 COMMISSIONER BRACERAS: Yes.

22 CHAIRPERSON BERRY: That's weird. Why do  
23 you hear me?

24 Boost the volume in D.C. Each person say  
25 something in turn and let's see what happens.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Commissioner Braceras?

2 COMMISSIONER BRACERAS: Testing 1, 2, 3.

3 CHAIRPERSON BERRY: Can you hear

4 Commissioner Braceras?

5 COMMISSIONER BRACERAS: No, not at all.

6 CHAIRPERSON BERRY: Wait a minute.

7 COMMISSIONER BRACERAS: Testing 1, 2, 3.

8 CHAIRPERSON BERRY: Did you hear?

9 COMMISSIONER BRACERAS: No.

10 CHAIRPERSON BERRY: Try one more time,  
11 please, Commissioner.

12 COMMISSIONER BRACERAS: Testing 1, 2, 3.

13 COMMISSIONER BRACERAS: That's a lot  
14 better.

15 CHAIRPERSON BERRY: Okay. Commissioner  
16 Thernstrom?

17 COMMISSIONER BRACERAS: No.

18 COMMISSIONER THERNSTROM: Testing 1, 2, 3.  
19 There's a terrible noise in the mike on top of  
20 everything else.

21 Can you hear me?

22 COMMISSIONER BRACERAS: We can hear you,  
23 there's just a lot of noise in your mike.

24 CHAIRPERSON BERRY: Okay. What we're  
25 going to do is we are going to go ahead with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 meeting and we're going to let you listen as best you  
2 can while they figure out the technical difficulties.  
3 We have enough staff here to go ahead and do it anyway  
4 and let's see if it works out as we go along in the  
5 interest of time, so we'll just go ahead and proceed  
6 any.

7 COMMISSIONER BRACERAS: Okay.

8 CHAIRPERSON BERRY: The suggestion is made  
9 by Commissioner Kirsanow, seconded by Commissioner  
10 Thernstrom that we add a discussion of the Monroij  
11 case to the agenda. Someone was seeking recognition.  
12 I think it was the Vice Chair.

13 VICE CHAIRPERSON REYNOSO: I had just  
14 suggested, Madam Chair, that that can come under the  
15 Staff Director's Report. He can give us an update on  
16 what's happening with that matter.

17 CHAIRPERSON BERRY: That's right. It  
18 would, it could come appropriately under the Staff  
19 Director's Report. And so if you have no objection to  
20 having it come under the Staff Director's Report, we  
21 can do that?

22 COMMISSIONER KIRSANOW: No, I don't, Madam  
23 Chair.

24 CHAIRPERSON BERRY: Okay. Commissioner  
25 Braceras?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   COMMISSIONER BRACERAS: My only question  
2 is whether the staff would also at that juncture be  
3 able to discuss the proposed CFRs and their relation  
4 to the Monroij case.

5                   CHAIRPERSON BERRY: The staff can discuss  
6 anything that is on-going at the Commission under the  
7 Staff Director's Report. So any issue, that as well  
8 as any others that are on-going issues and are not new  
9 issues, you may ask about when we get to the Staff  
10 Director's Report.

11                   Commissioner Thernstrom?

12                   COMMISSIONER THERNSTROM: Well, it's not  
13 clear to me that that's an on-going issue and that the  
14 letter to the Federal Registrar for an emergency  
15 inclusion of changes to the CFR went out.

16                   So it that an on-going issue that we can  
17 discuss?

18                   CHAIRPERSON BERRY: Yes.

19                   COMMISSIONER THERNSTROM: Okay.

20                   CHAIRPERSON BERRY: All right, so what  
21 we'll do then is if there's no objection is proceed  
22 with the agenda and any of these administrative issues  
23 that Commissioners want to discuss, we will discuss  
24 under the Staff Director's Report.

25                   Yes, Commissioner Edley?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   COMMISSIONER EDLEY: I'm sorry, I do have  
2 a concern about the extent to which the Commission  
3 ought to be involving itself in the administrative  
4 matters.

5                   I don't know what the general practice is,  
6 but I do worry about -- you don't think that there's  
7 any issue of our becoming overly intrusive in the  
8 administrative -- what are the natural limits on this  
9 kind of discussion when we get to the Staff Director's  
10 Report?

11                   CHAIRPERSON BERRY: I think that there are  
12 natural limits and when we get to the Staff Director's  
13 Report, you should raise that point again.

14                   COMMISSIONER EDLEY: Okay.

15                   CHAIRPERSON BERRY: Okay. So without any  
16 further objection, could we approve the agenda? Call  
17 for the question.

18                   All those in favor, indicate by saying  
19 aye.

20                   (Ayes.)

21                   Opposed?

22                   (No response.)

23                   **II. Approval of Minutes of June 21, 2002 Meeting**

24                   CHAIRPERSON BERRY: Now the second item is  
25 approval of the minutes of June 21st meeting.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com



1 fight to get the Americans With Disabilities Act  
2 passed, traveled throughout the United States visiting  
3 every state at least four times, and the whole  
4 struggle to get that law passed. He was the recipient  
5 of many, many awards from all of the people who  
6 supported and loved what he did, including the Hubert  
7 Humphrey Award of the Leadership Conference on Civil  
8 Rights and the American Legion's National Commander's  
9 Award for Distinguished Public Service, and was, of  
10 course, elected to the Disability Hall of Fame. So I  
11 just wanted to acknowledge the passing of Dart. Mr.  
12 Justin was a champion in the cause of civil rights.

13 And the second is to announce another  
14 landmark which is the passing of General Benjamin O.  
15 Davis, Jr. who was a graduate of West Point, became a  
16 Commander of the Tuskegee Airmen in World War II and  
17 was the first black General in the Air Force and got  
18 his Fourth Star in 1998 by President Clinton and his  
19 squadron during World War II, their performance, the  
20 Tuskegee Airmen was a crucial factor in President  
21 Truman's decision to integrate the armed forces in  
22 1948. So I just wanted to mark the passing of those  
23 two champions in the cause since the last meeting.

24 Does anyone else have any announcements  
25 about anything at all?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 **IV. Staff Director's Report**

2 CHAIRPERSON BERRY: Okay, now we'll go to  
3 the Staff Director's Report. And people may ask  
4 whatever they please.

5 Do you have anything you wish to tell us,  
6 Staff Director?

7 MR. JIN: Madam Chair, I do have one item  
8 that I'd like to report on and I could do it now or  
9 later, but if there's no preference I'd just as soon  
10 announce it now, if that's all right.

11 As you know, the Commissioners are aware a  
12 couple of weeks ago there was an incident at  
13 Englewood, California where again on videotape was  
14 caught a situation which many felt was an example of  
15 excessive police force and so I've been in  
16 conversation and contact with our Regional Office, in  
17 particular, about that situation to keep apprised.  
18 From my conversations with our office, they report  
19 that although there is calm there, there is also a  
20 high interest in what happened, quite a bit of anger  
21 and a lot of resolve to fix what many in the community  
22 see as a persistent problem of police practices in  
23 Englewood. For now, there's a willingness in the  
24 community to wait to see how various investigations  
25 play out.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           The Englewood Police Department and the  
2 L.A. Sheriff's Department are conducting internal  
3 investigations of the officers. An attorney for the  
4 youth has filed a lawsuit in Federal District Court  
5 and the L.A. District Attorney quickly convened a  
6 Grand Jury to consider evidence of possible legal  
7 action against the officers and late Wednesday,  
8 returned two indictments.

9           The F.B.I. has begun civil rights  
10 investigation and will forward its report back to  
11 Headquarters. Also, Assistant Attorney General for  
12 Civil Rights, Ralph Boyd, was in L.A. last weekend. He  
13 apparently met with Englewood officials, city  
14 officials, but I don't believe he met with anyone from  
15 the community. When Mr. Boyd returned to Washington,  
16 D.C., he issued a statement indicating that the local  
17 community appeared to be comfortable with their  
18 leadership and with the process being formulated. And  
19 our understanding is that he is now waiting for the  
20 FBI report.

21           Over last weekend, the local community  
22 also formed a local committee of community leaders was  
23 formed in Englewood, and based on conversations our  
24 regional staff had with various people, as well as  
25 informal information gathering, it appears that a good

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 relationship has been established between the local  
2 government leaders and community leaders. Our sense  
3 is that as long as there is optimism, that this  
4 process will develop a strong likelihood that  
5 effective change will occur. This will be the primary  
6 focus for the community.

7 Among the things being examined are plans  
8 for the city to establish a civilian panel to oversee  
9 police action, review the current complaint process,  
10 and remove police from the street when complaints are  
11 filed. The L.A. Times has done a number of stories  
12 showing that the Police Department has had more than  
13 its share of complaints. However, none of these  
14 complaints filed with the Department involving excess  
15 force has ever been raised to the L.A. District  
16 Attorney.

17 Our Western Regional Office says that the  
18 Englewood Police Department is relatively poorly  
19 trained compared to the L.A. Police Department since  
20 there appears to be a significant turnover. The  
21 Department has about 200 officers, about a third who  
22 are pretty new. The force is about 43 percent white,  
23 27 percent Latino and 24 percent African American. And  
24 in contrast to that, the city's 110,000 residents is  
25 about 46 percent African American and 47 percent

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Latino. Both the Mayor, a retired Judge, and the  
2 Police Chief, formerly a high ranking officer with the  
3 L.A. Department, Police Department are African  
4 Americans.

5 Englewood has not utilized community  
6 policing or a civilian review board. Our Western  
7 Regional Office has sent to the city some of our  
8 reports of police practices and highlighted our work  
9 and recommendation on those issues.

10 As the Commissioners may remember, our  
11 police practice is to highlight the value of tools  
12 such as training, community policing and civilian  
13 review boards. And one interesting note is that the  
14 L.A. County Board of Supervisors responded to what  
15 happened in Englewood by adopting a proposal to  
16 provide assistance to cities within the county that  
17 may want to implement civilian review boards.

18 If the Western Regional Office had not  
19 written the Mayor and the City Council in Englewood  
20 and provided them with our reports of police  
21 practices, I would definitely suggest that we should  
22 do that. However, at this time, I think it may be  
23 best to wait to see how things develop in Englewood in  
24 terms of how the broader issues of police practices  
25 are handled, since the community appears to believe it

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 has a viable process it plays. However, there may be  
2 an opportunity to offer assistance to the broader L.A.  
3 County by offering to have Western Regional office  
4 staff with support from Headquarters to brief the L.A.  
5 Board of Supervisors, as well as other L.A. entities  
6 and some of the other 88 cities in L.A. County on our  
7 findings and recommendations of police practices.

8 Additionally, the L.A. Sheriff's Office is  
9 responsible for about half of the cities and L.A.  
10 County and offering to work with it is another option.  
11 This will allow us to take advantage of the high  
12 interest and concern in L.A. County about police  
13 practices and our Western Regional Office does have  
14 significant experience working on these issues,  
15 providing technical assistance with various  
16 communities. In recent years, they worked with Sonoma  
17 County and parts of Nevada and Huntington Park,  
18 California. And so, unless Commissioners feel that I  
19 should take a different course, I will proceed with  
20 that.

21 CHAIRPERSON BERRY: Okay, thank you. I  
22 was out of the country when this happened and got a  
23 call from a reporter who chased me down to ask if I  
24 wanted to comment on the latest incident perpetrated  
25 by the LAPD. I said the LAPD, where was it? And he

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 said Englewood. And so I asked somebody else who was  
2 on the trip with me from California whether it was the  
3 LAPD and they said no. So I said no. And then I  
4 turned on the television later and saw the story and  
5 the story led with "latest incident of the LAPD", so I  
6 thought gee. But in any case, and when I got back a  
7 couple of people called to see if I wanted to go out  
8 there to -- there were some folks going out there to  
9 have meetings with people and from what I could read  
10 and what you tell me confirms this, that folks out  
11 there seem to be on top of it and the Justice  
12 Department and everybody and so it doesn't seem to me  
13 at this time beyond what you've suggested that we need  
14 to do anything in particular.

15 Yes, Vice --

16 VICE CHAIRPERSON REYNOSO: Madam Chair,  
17 I've been impressed by the approach of the officials  
18 to this incident with one exception and that is that  
19 most officials have taken the view that this is a bad  
20 apple incident and there are some indication that may  
21 be true because the reports were that another officer  
22 stepped in between the young African American youth  
23 who was being manhandled and the officer who was doing  
24 the manhandling.

25 On the other hand, I'm convinced that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 these incidents will continue to happen so long as we  
2 don't pay more attention to the motivation that  
3 officers have, what motivates them, what brings  
4 respect to them within the Department and I think that  
5 the oversight that we have and other efforts that  
6 we've been involved with will continue to be  
7 unsuccessful without a deeper understanding of what  
8 motivates an officer, what makes an officer feel that  
9 he or she is doing a good job and then trying to  
10 change that motivation.

11 CHAIRPERSON BERRY: Unless someone thinks  
12 there's something else we should be doing about this,  
13 we will leave the Staff Director and thank him for his  
14 report and you can keep us informed if there's  
15 anything else we should be doing on this subject.

16 The other thing I wanted to point out to  
17 you is that I've asked the Staff Director to have  
18 drafted a letter to go to the Agriculture Department,  
19 to the Secretary over there, concerning the issue of  
20 the black farmers who recently mounted a protest at  
21 one of the Farm Agency offices over the issue of loans  
22 and land loss of black farmers. The Commission has a  
23 position on this issue which we have had since the  
24 early 1980s. We did the first report on the decline  
25 of black farming in America. And we have followed up

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 on it with several different reports and we have met  
2 with the Secretary over time, various Secretaries, to  
3 discuss this issue and have followed it and asked for  
4 recommendations for improvements over there including  
5 civil rights offices and activities which I thought  
6 had already taken place, since the last Secretary  
7 promised that they would take place. So we just  
8 thought that we would send a letter over and remind  
9 them of our longstanding interest in this question and  
10 repeat the recommendations that we have made. And if  
11 the issue is not resolved, it may require a meeting at  
12 some point, but for now just a letter reminding them.

13 Now others had questions, yes.

14 COMMISSIONER BRACERAS: Would the letter  
15 be sent on behalf of the entire body?

16 CHAIRPERSON BERRY: Yes, the letter will  
17 say for the Commission, yes.

18 COMMISSIONER BRACERAS: Will we have an  
19 opportunity to review the letter?

20 CHAIRPERSON BERRY: That's not the policy  
21 of the Commission as it's stated--

22 COMMISSIONER BRACERAS: I'm just asking  
23 for the opportunity to review the letter.

24 CHAIRPERSON BERRY: Could someone remind  
25 me what the Commission passed as its policy on the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 matter of letters?

2 VICE CHAIRPERSON REYNOSO: Well, Madam  
3 Chair, once the Commission has taken, it's certainly  
4 been the practice, I don't know if it's in the  
5 regulations, that the Chair -- well, I guess the  
6 statute says the Chair speaks for the Commission and  
7 the practice has been therefore when we've taken the  
8 position, the Chair is authorized to send its letter.

9 CHAIRPERSON BERRY: No, no. I'm talking  
10 about the last discussion we had at the meeting when  
11 this issue was raised and we passed a resolution  
12 reaffirming our policy on such letters.

13 The last letter was a letter, I think,  
14 concerning the Haitians, but I've forgotten what the  
15 letter was about.

16 But in any case, I'd be happy to send you  
17 a copy as a matter of courtesy, if you wish to  
18 comment?

19 COMMISSIONER BRACERAS: That would be  
20 wonderful. I'd appreciate it. Thank you.

21 CHAIRPERSON BERRY: I'm not required to do  
22 that, but I'd be happy to do that.

23 Yes?

24 COMMISSIONER KIRSANOW: Madam Chair, as I  
25 understand it, you send a letter and if any of us

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 don't like it we can send a letter too?

2 CHAIRPERSON BERRY: You can send your own  
3 letter, yes.

4 COMMISSIONER BRACERAS: I appreciate the  
5 Chair's offer as a matter of courtesy to let us look  
6 at it before it goes out. It is a matter of courtesy  
7 and it's appreciated.

8 CHAIRPERSON BERRY: Okay. Commissioner  
9 Thernstrom?

10 COMMISSIONER THERNSTROM: I mean the  
11 trouble with we can send a letter too is that we don't  
12 necessarily see all letters that go out under our name  
13 and it does put us in a position that some of us are  
14 not comfortable with, that letters are going out in  
15 our names that we haven't even seen and don't have  
16 therefore, an opportunity to write independently in  
17 response to.

18 CHAIRPERSON BERRY: Okay, all right, thank  
19 you. Now someone had other questions for the Staff  
20 Director that you wish to raise, please could you ask  
21 whatever questions you wish to raise?

22 COMMISSIONER KIRSANOW: I'd like to ask  
23 the Staff Director what is the current status of the  
24 Monroij Administrative Proceedings.

25 MR. JIN: Certainly, Commissioner

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Kirsanow.

2 CHAIRPERSON BERRY: Have you written to  
3 them on this question?

4 MR. JIN: Yes, Madam Chair, I was just  
5 going to say that Commissioner Kirsanow wrote a letter  
6 to a me a little while back and then it was followed  
7 up with a -- well, on Ms. Monroij, I guess it was  
8 Commissioner Kirsanow wrote to me and asked me about  
9 the situation and I believe I indicated that the --  
10 with Ms. Monroij we had gotten a decision of course  
11 from the EEOC a couple of months ago and the decision  
12 basically reaffirmed a hearing official decision,  
13 stating that the Commission did not discriminate  
14 against Ms. Monroij on the allegations of  
15 discrimination based on race, ethnicity, gender or  
16 age.

17 It did find and reaffirm that the  
18 Commission inappropriately gave her certain  
19 assignments a number of years back and that because  
20 Ms. Monroij had filed a complaint against us in the  
21 intervening period that that was a retaliation against  
22 her. And so what we did was we decided to accept part  
23 of that decision, but we challenged in the Motion to  
24 Reconsider the finding that we had -- that we needed  
25 to reinstate her to the Solicitor position. However,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 consistent with that opinion we have implemented the  
2 part on reinstating her to the Solicitor position.  
3 I've had three conversations with Ms. Monroij myself  
4 in the last couple or three weeks and including one  
5 with Deputy General Counsel and one with our head of  
6 personnel to make sure that we've done everything  
7 right to make sure that she will be giving assignments  
8 in accordance with that ruling. So that is the  
9 status.

10 We have a Motion to Reconsider because we  
11 do believe that we should not be required to reinstate  
12 her to the Solicitor position. We've always  
13 maintained that those duties did not entail an entire  
14 position and that we should have some leeway, General  
15 Counsel's Office should have some leeway in terms of  
16 giving staff assignments to making sure we're fully  
17 covered with all of these various duties. We have a  
18 small staff, there are departures and things like that  
19 so we wish to make that case with the EEOC, but that  
20 is the status. We believe we're in full compliance  
21 with the order at this time.

22 CHAIRPERSON BERRY: Commissioner Edley?

23 COMMISSIONER EDLEY: I guess I feel a  
24 little uncomfortable discussing the particulars of  
25 individual personnel matters for litigation. And I'm

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 wondering whether it would not be appropriate for  
2 interested Commissioners to have a meeting with the  
3 Staff Director to talk about all of this in detail and  
4 then if on the basis of that full conversation with  
5 the Staff Director and the Deputy General Counsel,  
6 whomever that's appropriate, if then there's some  
7 policy action that's required of the Commission that  
8 can be brought back to the Commission, at the next  
9 meeting or if there's a motion that we need to do by  
10 poll vote or something of that sort, but I'm prepared  
11 to make that a motion.

12 CHAIRPERSON BERRY: All right, please do.

13 COMMISSIONER EDLEY: I guess my motion  
14 would be that the Staff Director is instructed to meet  
15 with interested Commissioners to have a full  
16 discussion of this administrative matter, including  
17 litigation related to it.

18 And further, that if Commissioners  
19 following that full staff discussion wish to put a  
20 matter for discussion or action before the Commission,  
21 that we do it at the next meeting.

22 So that's my motion.

23 CHAIRPERSON BERRY: Could I get a second?

24 VICE CHAIRPERSON REYNOSO: Second.

25 CHAIRPERSON BERRY: Discussion?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Yes, Commissioner Braceras.

2 COMMISSIONER BRACERAS: Well, I'm not  
3 going to speak directly to the motion, but I do have  
4 something I'd like to say about this matter and that  
5 is I feel and I think I speak for Commissioner  
6 Kirsanow, as well, both being employment lawyers, that  
7 there are certain things that need to be said on the  
8 record about this, not necessarily with respect to  
9 prior dealings in this case, but with respect to the  
10 actions of the Commission going forward. And it is my  
11 concern, quite frankly, that the proposed regulations  
12 and the proposed elimination of the position would be  
13 interpreted by the EEOC as further retaliation and I  
14 certainly would not want to see the United States  
15 Commission on Civil Rights helped by the EEOC to have  
16 further retaliated against an employee. And so were  
17 the Commission to be my client, I would strongly  
18 advise the Commission to reconsider that. And what I  
19 wanted to ask the Staff Director about specifically  
20 was --

21 CHAIRPERSON BERRY: Well, could we dispose  
22 of the motion first?

23 COMMISSIONER BRACERAS: No. I want to  
24 finish what I'm saying.

25 CHAIRPERSON BERRY: Are you speaking to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the motion?

2 COMMISSIONER BRACERAS: I'm asking the  
3 Staff Director a question which is --

4 CHAIRPERSON BERRY: But there's a motion  
5 --

6 COMMISSIONER BRACERAS: Excuse me, excuse  
7 me.

8 CHAIRPERSON BERRY: -- on the floor.

9 COMMISSIONER BRACERAS: Right, that's why  
10 I asked you before the question was called, before he  
11 made the motion. That's why I asked you if I could  
12 first be heard.

13 CHAIRPERSON BERRY: You can be heard as  
14 soon as the motion is passed.

15 COMMISSIONER BRACERAS: Well, if I could  
16 just finish it would make it much more efficient, I  
17 think.

18 CHAIRPERSON BERRY: Go right ahead.

19 COMMISSIONER BRACERAS: And then I'll be  
20 quiet. I wonder exactly what Ms. Monroij's title is  
21 and exactly what the duties are. Because as I read  
22 the EEOC opinion, she is to be reinstated to her prior  
23 position with the same duties and the elimination of  
24 those duties would, in my view, constitute further  
25 retaliation, so I'd like the Staff Director to explain

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 precisely the nature of Ms. Monroij's duties and what  
2 his intentions are for her and her position in light  
3 of the CFR. I think it's important that we be  
4 apprised of that so that we're not complicit in any  
5 illegal actions.

6 MR. JIN: Madam Chair, I'd like to defer  
7 to the Deputy General Counsel who has been working on  
8 this case to answer this.

9 CHAIRPERSON BERRY: Please.

10 MS. CARR: Thank you. I just have a  
11 general concern that by discussing the internal  
12 personnel matters of the Commission in an open session  
13 that we may be in violation of Privacy Act provisions  
14 and we may want to do this in a closed meeting or  
15 closed session.

16 COMMISSIONER EDLEY: I renew my motion. I  
17 think the Commissioner's concern is questions can be  
18 handled in that staff discussion and if anything  
19 emerges from that we could take action at the next  
20 meeting or in between.

21 CHAIRPERSON BERRY: Okay.

22 COMMISSIONER BRACERAS: I simply then in  
23 that regard --

24 COMMISSIONER EDLEY: I think she raises an  
25 important substantive question. I don't think any of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 us want the Staff Director to pursue a course of  
2 action that opens us up to further liability or even  
3 that cuts corners with respect to what the law  
4 requires of us.

5 COMMISSIONER BRACERAS: I suppose just a  
6 procedural question that doesn't get into any  
7 particular personnel matters would be what is the  
8 status of the proposed CFRs? Is that something this  
9 Commission will be asked to vote on or just where are  
10 we in that process and what happens next?

11 MS. CARR: Right. The CFRs are still  
12 pending. They've not been submitted as a final rule.  
13 I don't envision that here would be a need for the  
14 Commissioners to vote on the proposed revisions to the  
15 CFRs. The Commission voted on that in 1998. And the  
16 revisions that we would propose to submit are  
17 consistent with the Commission's vote in 1998.

18 COMMISSIONER BRACERAS: Right, but in  
19 light of changed circumstances, including this  
20 litigation, might it not be appropriate to bring  
21 certain sections back to the Commission for a  
22 discussion, perhaps in Executive Session if that's  
23 more appropriate?

24 MS. CARR: The revisions in the CFRs are  
25 not inconsistent with the EEOC's order that the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 employee be provided the duties and functions of the  
2 position as it existed in 1990. So we don't envision  
3 that the CFRs would have an adverse impact on that  
4 employee.

5 COMMISSIONER BRACERAS: Thank you for the  
6 update.

7 CHAIRPERSON BERRY: Okay. Does anyone  
8 else want to speak to the motion before the question  
9 is called, to this motion? We can talk about other  
10 things, but if it's related to this.

11 COMMISSIONER THERNSTROM: I've got a  
12 question related to --

13 CHAIRPERSON BERRY: Does anyone want to  
14 speak to the motion about this particular motion?

15 VICE CHAIRPERSON REYNOSO: I do, Madam  
16 Chair. I have found it helpful when I had a question  
17 pertaining to administrative matters to call or sit  
18 down with the Staff Director to see if I had any  
19 qualms and particularly whether those qualms would  
20 lead to a suggested policy change. I must say that  
21 most of the concerns that I've had have been resolved  
22 without the necessity of a policy change, so I never  
23 brought anything to the Commission, but I have found  
24 that a very valuable step in answering, particularly  
25 administrative questions that I have.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON BERRY: So can we call for the  
2 question? All right, all those in favor of  
3 Commissioner Edley's motion indicate by saying aye.

4 (Ayes.)

5 Those opposed to Commissioner's Edley's  
6 motion.

7 (No response.)

8 The motion carries. Now further  
9 discussion on the Staff Director's Report?

10 Commissioner Thernstrom?

11 COMMISSIONER THERNSTROM: I'm still back  
12 at the same issue. I did pose, in writing, a  
13 question. When were these proposed rules, the CFR  
14 rules, adopted by the Commission? If the last vote of  
15 the proposal was in 1998, why did it take five years  
16 to publish the rules in the Federal Register? Why  
17 weren't the proposed rules presented before this  
18 Commission this year relying on a 5-year vote?

19 And I don't -- this whole procedure  
20 bewilders me. Five years ago there was a vote that  
21 somehow now we don't need a vote on changes in  
22 safeguards? I don't understand this whole scene,  
23 frankly.

24 CHAIRPERSON BERRY: I think the motion  
25 covers the discussion and therefore after you had this

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 discussion with the Staff Director, if it's  
2 unsatisfying, you can bring it back again. That's  
3 what the motion says.

4 Could we move the agenda, unless someone  
5 has --

6 COMMISSIONER EDLEY: Move the agenda.

7 **V. State Advisory Committee Appointments for**  
8 **Florida and Kentucky**

9 CHAIRPERSON BERRY: The SAC appointments  
10 for Florida and Kentucky are the next item on the  
11 agenda.

12 Could I get a motion to approve the SAC  
13 appointments for Florida?

14 VICE CHAIRPERSON REYNOSO: So moved.

15 CHAIRPERSON BERRY: Could I get a second?

16 COMMISSIONER EDLEY: Second.

17 CHAIRPERSON BERRY: I was particularly  
18 impressed with the statement of the Chair of the  
19 Florida SAC. I thought it was illuminating. You  
20 might share it with some of your other SAC Chairs  
21 because we now have this procedure and the SAC Chair  
22 is submitting statements and I thought hers was  
23 particularly interesting.

24 VICE CHAIRPERSON REYNOSO: Madam Chair,  
25 two comments. One, I've been pleased that the many

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 proposals we've had for the state SACs have continued  
2 to include young people, i.e., under 40. So I just  
3 want to commend the staff for that and the SACs. For  
4 a while we had lost young people under 40.

5 Secondly, I must have that I had serious  
6 qualms about asking the Chairs for their comments on  
7 what they hope to do in the next couple of years.  
8 Fellow Commissioner Edley was the one who made that  
9 suggestion, but I must say that it's worked out well.

10 I think it's been illuminating to get a  
11 statement from the Chair telling us what the Chair  
12 hopes she or he and the local SAC will accomplish.

13 CHAIRPERSON BERRY: Maybe that and with  
14 that enterprise of going around meeting with people  
15 and listening to them, maybe this will help us in the  
16 absence of greater resources to at least show people  
17 that we appreciate what they're doing and try to  
18 support what they're doing. And I notice Willie  
19 Gonzalez who used to be a Staff Director on the  
20 Florida SAC.

21 VICE CHAIRPERSON REYNOSO: Oh yes.

22 CHAIRPERSON BERRY: I didn't know he was  
23 in Florida. Okay. If there's no further discussion,  
24 could we -- all those in favor of the appointments to  
25 the Florida SAC indicate by saying aye?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 (Ayes.)

2 Opposed?

3 (No response.)

4 So ordered.

5 The Kentucky SAC, could we get a motion on  
6 the Kentucky SAC?

7 VICE CHAIRPERSON REYNOSO: So moved.

8 CHAIRPERSON BERRY: Second, please?

9 COMMISSIONER BRACERAS: Second.

10 CHAIRPERSON BERRY: Discussion? Okay. All  
11 those in favor indicate by saying aye.

12 (Ayes.)

13 Opposed?

14 (No response.)

15 So ordered.

16 **VI. Discussion of the statutory report, "Ten-Year**  
17 **Check-Up: Have Federal Agencies Responded to Civil**  
18 **Rights Directives?"**

19 CHAIRPERSON BERRY: Then the next item is  
20 discussion of the statutory report, "Ten-Year Check-  
21 Up: Have Federal Agencies Responded to Civil Rights  
22 Directives?"

23 Kim, do you have something on that? What's  
24 the story on that?

25 Do we just want to have discussions?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Okay. Is she able to do that?

2 MS. DICKERSON: Hello?

3 CHAIRPERSON BERRY: Hi, Terri.

4 MS. DICKERSON: Hi, we're still straining  
5 a little bit to hear. So --

6 CHAIRPERSON BERRY: We can hear you very  
7 well, so don't worry.

8 MS. DICKERSON: And I will take it on  
9 faith that when we discuss the report I'll be able to  
10 hear what you say.

11 I'll go ahead and proceed and I hope  
12 you're looking at a screen that says --

13 CHAIRPERSON BERRY: We are looking at it.  
14 We're looking at it.

15 COMMISSIONER EDLEY: It's gorgeous.

16 MS. DICKERSON: Thanks for the opportunity  
17 to briefly discuss this report. OCRE has worked on  
18 this report for the past year, along with other  
19 assignments. The 10-year review of Volumes 1 and 2,  
20 the teams consisted of Eileen Rudert who was team  
21 leader; Manual Alba, Softul McDougal, Margaret Butler,  
22 Wanda Johnson, Monique Dennis-Elmore, Latrice Veashay  
23 and Marie Zisnus were on the team as well as our  
24 interns over the past year, Tammy Chu, Victoria Tomb,  
25 Michael Wolf, Daniel Head and Carolyn Fallon. I also

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 want to thank Barbara Delavise, Curt Perry, Joyce  
2 Smith and Bernard Quarterman for reviewing the report  
3 for legal sufficiency and Ivy Davis and Al Jenkins,  
4 David Aaronson, Barbara Fontana, Angus St. Helair, and  
5 Arthur Palacio who reviewed and commented on the  
6 report and helped us to get the draft together, as  
7 well as Dawn Sweet for all of her editorial  
8 assistance. A lot of people had read it before you  
9 got it.

10 The Commission decided to do this report,  
11 I'm on Slide 2, Kim, in 1999 and last year, in 2001,  
12 decided it should be a multi-year series. This is  
13 different because what we were looking at this time  
14 around was not really going to agencies and getting  
15 new information. We were cataloging and documenting  
16 what the Commission already had said in its  
17 enforcement reports, not all reports, but in  
18 enforcement reports between 1992 and 2002.

19 And secondly, the objective of the report  
20 was to determine the extent to which agencies had  
21 responded to those and were following the Commission  
22 recommendations.

23 Years ago, long before my time, the Agency  
24 did more regular monitoring of agencies because the  
25 staff was bigger and there were more resources to do

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that and so this was a good time, an opportune time to  
2 go back and really assess how these agencies had  
3 responded to what the Commission has been saying over  
4 the past 10 years.

5 I'm going to talk about Volume 1 first.  
6 For Volume 1, no new data was collected from agencies.  
7 It simply served to establish an overview of what the  
8 Commission has issued to agencies over the past 10  
9 years. So for Volume 1, we didn't conduct interviews  
10 of staff. We catalogued recommendations and reviewed  
11 them and documented what was said in past enforcement  
12 reports.

13 On Slide 3, these are the methodology that  
14 we followed. For Volume 1, we reviewed and  
15 categorized those recommendations from the past  
16 reports and thus, this volume is an overview of the  
17 themes that emerged from that 10 years of  
18 recommendations and it's also an analysis of which  
19 agencies are enforcing civil rights well or poorly  
20 when the Commission last studied them.

21 Slide 4 addresses the scope of the review.  
22 Volume 1 looked at 16 Commission enforcement reports  
23 and that covered 11 federal agencies which covered  
24 most of the major civil rights statutes and  
25 represented more than 1100 recommendations that the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commission had made in both enforcement reports.

2 Slide 5, these nine bullets represent the  
3 16 reports that we catalogued in this review. So they  
4 really ran the range from housing to employment to  
5 transportation.

6 Slide 6, again, these are the 11 federal  
7 agencies that were studied and represented in the 16  
8 reports. We didn't study them this year, but again,  
9 they were the ones that were represented in the  
10 reports that resulted in the study.

11 Slide 7 shows or kind of summarizes by  
12 category the civil rights statutes that were covered  
13 and again, they ran the gamut of the Civil Rights Act,  
14 education statutes, disability statutes, housing  
15 statutes and other statutes. All of those were  
16 represented in the 10 years of enforcement reports.

17 Slide 8 shows a breakdown of what the  
18 Commission spoke about in those 10 years of  
19 recommendations and you will see the biggest category  
20 is policy dissemination and that refers to issuing  
21 guidance and policy statements in terms of agencies  
22 needing to provide guidance for how enforcement works,  
23 followed by the priority of civil rights enforcement  
24 within the Agency. That has to do with where the  
25 Agency is situated -- where the Office of Civil Rights

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 is situated within the Agency and how civil rights is  
2 a priority or not within the Agency. Those were the  
3 largest category and I won't go over the other ones.

4 Slide 9. We detected an overall  
5 patterning what the Commission had said in the 16  
6 reports over 10 years. Taken together, the reports  
7 said that there are key elements about which  
8 enforcement responsibilities really can't be carried  
9 out. So what are those elements that we identified  
10 that the Commission -- when we put all the  
11 recommendations on reams of paper, this is what jumped  
12 out.

13 Slide 10. They are number one, a high  
14 priority within the Agency for civil rights  
15 enforcement expressed in part by an organizational  
16 structure that makes civil rights a priority; the  
17 planning goals and evaluating outcomes and fourth,  
18 clear and pertinent policy guidance, current  
19 regulations, technical assistance and outreach. These  
20 are continues on the next slide, 11.

21 An effective complaints processing system,  
22 systems that ensure a review of all funding recipients  
23 and their compliance before and after awards are made  
24 and regular staff training on civil rights statutes  
25 and emerging issues. So as the Agency's authority may

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 change that the staff gets trained appropriately.

2 Slide 12 is our other chief finding. There  
3 were agencies that have the elements that I just  
4 mentioned, but those agencies that were most  
5 successful were able to get around resource  
6 constraints, were the ones that found ways to maximize  
7 those elements and put them together. Some did so in  
8 order to compensate for shrinking budgets and some did  
9 so just as matter of course and good management and we  
10 noted this in the end of report.

11 The next slide talks about those ways to  
12 overcome the limited resources that agencies had found  
13 or that agencies, that irrespective of resources found  
14 ways to maximize those elements. And those are  
15 integrating civil rights enforcement throughout every  
16 part of the Agency, delegating activities where  
17 appropriate, implementing oversight and quality  
18 assurance procedures, coordinating civil rights  
19 enforcement activities with other agencies,  
20 streamlining procedures and truly involving advocacy  
21 groups, not just putting them on a mailing list, but  
22 having a two-way conversation with the community and  
23 people in the public.

24 Slide 14, we also found that there was  
25 great, wide variation in how successful the Commission

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 found agencies over the 10 years. The Commission said  
2 that agencies needed to be cognizant of all those  
3 elements and furthermore that they need to organize  
4 and utilize all the elements in a very effective way.

5 Slide 15, some agencies seem to have the  
6 structure in place in most of the elements. They were  
7 focused on or were able to focus on how to utilize  
8 those elements in a widespread fashion. For example,  
9 the Commission found over the last 10 years of study  
10 that the Department of Education and the EEOC were  
11 probably in that category, all those elements that I  
12 mentioned before are in place and now they are  
13 focusing on how to utilize them.

14 Slide 16, some had elements in place, but  
15 they weren't widespread. For example, the Department  
16 of Labor, the Department of Transportation has some  
17 elements in place, but needed to work on  
18 comprehensively having them in place for all of their  
19 civil rights functions.

20 Slide 17 showed that we found the U.S.  
21 Department of Agriculture, Health and Human Services,  
22 Housing and Urban Department and the Department of  
23 Justice, they had many, but not all elements in place  
24 and in some cases really decent and laudable programs,  
25 but very inconsistent across the board and this is why

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we placed them in this category.

2 Slide 18, the Commission seemed to find  
3 overall in its report that there were agencies,  
4 notably the Department of the Interior, the  
5 Environmental Protection Agency and the Small Business  
6 Administration that really didn't even have a lot of  
7 the elements in place, let alone in a widespread  
8 manner or having the ability to utilize them  
9 effectively.

10 Slide 19. We received responses from --  
11 we sent out the report to be reviewed by all the  
12 affected agencies and we received responses from the  
13 EEOC and from the Departments of Justice, Labor and  
14 Transportation. Most of the comment we received were  
15 editorial and there was a change made as a result, a  
16 minor change. We had categorized the Department of  
17 Education as having one model of authority and they  
18 really are considered in another model of authority.  
19 So that is a table that will change. And if there are  
20 questions about that I can go into greater detail. I  
21 won't take the time now.

22 On Slide 20 and the following slides, I  
23 just have in case anyone wants to discuss any of the  
24 tables and figures, but I'm not planning to discuss  
25 them here, so I want to ask that we just move, skip

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 ahead to Slide 29 which is Volume 2 of the report.

2 CHAIRPERSON BERRY: Just a minute. Do you  
3 have 29 up?

4 Okay, it's up now.

5 MS. DICKERSON: Thanks. Volume 2 is the  
6 beginning of our look at agencies specifically. And  
7 if you skip to Slide 30, our purpose of Volume 2 was  
8 to study the extent to which three agencies, the  
9 Departments of Justice, Labor and Transportation had  
10 implemented specifically past recommendations.

11 And to the extent that this report reviews  
12 three agencies, the next year's report is going to  
13 look at another three. So that's how we plan to cover  
14 all of the 16 reports.

15 On 31, this is methodology for this Volume  
16 2. We did contact the three agencies and we did ask  
17 for responses to interrogatories and new documents  
18 that help us to determine whether or not they had  
19 followed past Commission recommendations. So  
20 specifically, we requested and reviewed policy,  
21 planning, budget documents, annual reports, civil  
22 rights implementation plans. We prepared and reviewed  
23 their responses to our interrogatories. We  
24 interviewed civil rights staff at all three agencies  
25 and we reviewed documents from the internet and other

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 places, GAO reports, a number of sources that we went  
2 to for our study.

3 What we determined from the Department of  
4 Justice, that's page 32, so if you skip to 33, within  
5 the Department of Justice, we looked at the Civil  
6 Rights Division, specifically two sections, the  
7 Coordination and Review Section, the Disability Rights  
8 Section, and we also looked at two other offices, the  
9 Office of Justice Programs and the FBI because these  
10 were the entities to which the Commission has directed  
11 past recommendations.

12 On 34, I'm only going to give some example  
13 findings, obviously. I know you've seen the report  
14 and read it so there are many more findings and  
15 recommendations. One of the recommendations with  
16 respect to Justice is that they need a central source  
17 of information for its functions that don't fall under  
18 CRD, for example, the FBI. The FBI has hate crimes  
19 reporting responsibilities and it's very hard to get  
20 civil rights reports out of offices that don't fall  
21 under CRD. So this is difficult and we recommended  
22 that they address that.

23 On Slide 35, we studied two sections and  
24 found that they had improved, particularly in their  
25 coordination and planning, in fact, the Disability

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 Rights Section is -- especially in its use of  
2 mediation for the enforcement of the ADA, is really a  
3 model program that should be replicated in other areas  
4 of the Department and that was our recommendation.

5 To do that, we also recommended that they  
6 need more resources, more money.

7 Slide 36, with respect to the Office of  
8 Justice Program, we found they're not doing as good a  
9 job as they could. One of the reasons is that a  
10 reorganization has been up in the air for a very long  
11 time and the office itself is not situation to have  
12 enough authority and we recommended that they finalize  
13 that reorganization and that it give the office enough  
14 authority, enough -- a line of reporting that would  
15 help it to exercise its authority.

16 In Slide 37, we found only lukewarm  
17 support and elements in place to support the Hate  
18 Crimes Statistics Act and we recommended that this be  
19 addressed by Congress as well as the Department.

20 Okay, 38 really skips us to the Department  
21 of Labor. And 39 shows the two offices that we looked  
22 at that were addressed in past reports, the Civil  
23 Rights Center and in previous reports it may have been  
24 referred to as the Directorate of Civil Rights, as  
25 well as the Office of Federal Contract Compliance

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Programs.

2 Slide 40, among findings and  
3 recommendations directed at Labor this time, they have  
4 instituted Title 6 functions for their main programs,  
5 but they really haven't put enough effort into Title 6  
6 enforcement in other areas and I think our report  
7 noted and went into more detail about their regional  
8 offices. They monitor Title 6 compliance mainly  
9 through data collection and they need to establish a  
10 more comprehensive Title 6 program, enforcement  
11 program.

12 Slide 41, Labor still hasn't gotten around  
13 to developing a publication we recommended in an  
14 earlier report and that publication would help the  
15 Department to explain how civil rights applies to  
16 other Labor programs. They need to interpret their  
17 regulations in relation to all of what the Department  
18 does, so everyone can understand what manifestations  
19 of discrimination exist and are possible.

20 Slide 42, we found that the Center hasn't  
21 strategically planned and designed an outreach program  
22 targeted to groups that may be victims of  
23 discrimination. And we gave them ideas for how they  
24 should do that and materials that they should develop  
25 in order to respond to that finding.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           On Slide 43, we found that their  
2 compliance review program was spotty. They do some  
3 one year, maybe none the next year and it really is  
4 inconsistent. As a result, they haven't reviewed all  
5 of their recipients and they're not doing as good a  
6 job as they could in terms of compliance review.

7           With respect also to staff training, on  
8 Slide 44, they need to conduct training on Title 6.  
9 They do effective training in other areas, but not on  
10 this and this is a big part of their responsibility.  
11 They really need to shore up their Title 6 training  
12 program.

13           Slide 45, if they got more involved in --  
14 I'm talking particularly about the Office of Federal  
15 Contract Compliance, OFCCP, we found that if they got  
16 more involved with the community and outside groups  
17 they would be a lot more effective. They are one of  
18 the organizations that sort of had a one-way  
19 communication with groups and their effectiveness  
20 would be greatly enhanced if they were to more  
21 maximize that resource.

22           Slide 46 switches us to the Department of  
23 Transportation.

24           Slide 47 shows that when we reviewed the  
25 Department of Transportation, it was a very large

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 review because in addition to recommendations that  
2 were directed to the Secretary, there were seven  
3 operating divisions that had been addressed in  
4 previous Commission reports and they're listed on  
5 Slide 47.

6           Okay, what did we find? On Slide 48, we  
7 found the Federal Highway Administration, these are  
8 examples of some of the recommendations and findings,  
9 that it needs to have -- I'm sorry, there needs to be  
10 a more direct line of reporting in order to be more  
11 effective. They also need to strengthen their civil  
12 rights functions that affect the public. Their  
13 emphasis tends to be on internal complaints, you know,  
14 employee complaints, and they need to shore up their  
15 programs with respect to their public  
16 responsibilities.

17           On Slide 49, this was something that was  
18 resonant throughout the report that in order to carry  
19 out their -- all of their authority, they really need  
20 to get additional resources and so there were some  
21 recommendations directed to Congress, as well as to  
22 the Secretary for how they might improve their funding  
23 picture.

24           On Slide 50, some of Transportation's  
25 operating divisions don't develop civil rights

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 implementation plans and these are required to --  
2 every agency is required to develop these by DOJ and  
3 they don't develop them, so the -- well, there were  
4 four divisions that should prepare those and they  
5 should conform to the DOJ requirements.

6 In 51, we found that the Coast Guard  
7 really is not doing enough post-award reviews,  
8 recipients. They are relying on self-certification  
9 and information from state recipients to determine  
10 their Title 6 compliance and we felt that this should  
11 be stronger.

12 52 gets to the conclusion and the last two  
13 slides. First, I think it should be said that the  
14 majority of Commission recommendations were  
15 implemented by the agencies and we found that the  
16 Department of Justice has improved in civil rights  
17 enforcement, but the Office of Justice Programs still  
18 is inadequate and needs a lot more and we were very  
19 concerned about the somewhat casual implementation for  
20 the Hate Crimes Statistics Act which results in a  
21 serious under reporting of such crimes.

22 Slide 53, the Department of Labor Center  
23 for Civil Rights still hasn't addressed many of the  
24 Commission's 96 recommendations and cited a lack of  
25 resources for that and we concur with that after

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 looking at their budgets. They still have a lot to do  
2 in order to follow many of the -- some of the  
3 recommendations that were made to them before.

4 The Department of Transportation is strong  
5 in some places and weak in others, so they have a lot  
6 of work to do and we directed a lot of recommendations  
7 to their staff and how that could be done and how they  
8 could overcome or compensate in the meantime for some  
9 staff and resource limitations.

10 54 gets at the effective agency review.  
11 Once again, all three agencies replied to us and the  
12 majority of the comments that we received were  
13 editorial in nature.

14 55, I won't spend time going over unless  
15 someone really has a question about specifically what  
16 the agencies said in their affected agency review. The  
17 Department of Justice though did provide additional  
18 information on the FBI's enforcement of the Hate  
19 Crimes Statistics Act because we had noted in a  
20 footnote that they hadn't provided that, so they want  
21 that footnote to be deleted and the Department of  
22 Transportation gave us some clarification on their  
23 organizational structure and staffing. And we made  
24 some statements about the Federal Railroad  
25 Administration and their enforcement responsibilities

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 and they qualified those as well. Those were some of  
2 the more substantive changes that we made.

3 That's really this year. Next year, we're  
4 going to review the Departments of Agriculture, the  
5 EPA, the SBA and the Department of the Interior in  
6 this same way and in 2004, there will be four other  
7 agencies to kind of put this in context. That's all I  
8 had planned.

9 CHAIRPERSON BERRY: Terri, that was  
10 wonderful.

11 MS. DICKERSON: Thank you.

12 CHAIRPERSON BERRY: Magisterial. It was  
13 so Terri-like. And Dickersonian, we'll say.

14 (Laughter.)

15 In any case, I think it's -- and I don't  
16 remember whether you outlined the overall summary of  
17 the report this way in the beginning of the actual  
18 report, but I think that it would be great if you did  
19 that with these same kinds of bullets in the final  
20 report.

21 MS. DICKERSON: Okay.

22 CHAIRPERSON BERRY: And the other thing  
23 is, unless somebody objects, the other thing is that I  
24 was pleased to see that most of the Commission  
25 recommendations have been implemented. I read that in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the report and you reiterated that because the  
2 Commission has prided itself on that over time.

3 MS. DICKERSON: Yes.

4 CHAIRPERSON BERRY: That this, all this  
5 work is worthwhile and is useable from the agencies.  
6 And then my only quibble with the entire report and  
7 then I'll turn it over to others is the title of the  
8 report, where you talk about directives.

9 MS. DICKERSON: Yes.

10 CHAIRPERSON BERRY: If we could direct  
11 people to do things that would be great.

12 MS. DICKERSON: Okay.

13 CHAIRPERSON BERRY: Because then they  
14 could implement all of our reports so we could club  
15 them over the head if they couldn't.

16 MS. DICKERSON: Okay.

17 CHAIRPERSON BERRY: But I think we need to  
18 find some other word other than "directives." I know  
19 you probably didn't want to say recommendations over  
20 and over again, but do you understand what I mean?

21 MS. DICKERSON: Yes, I do. We were trying  
22 to get away from that word because it's so much in the  
23 report that we were -- we will revisit that.

24 CHAIRPERSON BERRY: All right. And let me  
25 turn for comments from other Commissioners.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioner Edley, and if you don't hear people, I'll  
2 repeat what they said.

3 MS. DICKERSON: Thank you.

4 COMMISSIONER EDLEY: First, I want to say  
5 to Terri and the battalion that worked on this, I  
6 think it's just a fabulous piece of work and it is  
7 extremely heartening in its results. My only comment,  
8 Madam Chair, is that I think there will be an  
9 important market for this report on Capitol Hill and  
10 that it's worth investing, the staff, I think,  
11 investing some thought into how to effectively get  
12 interested folks on a whole range of committees,  
13 interested staff on a whole range of committees to pay  
14 some attention to these findings.

15 CHAIRPERSON BERRY: Did you hear that,  
16 Terri? Terri, can you hear me?

17 MS. DICKERSON: Oh, yes. I do.

18 CHAIRPERSON BERRY: Did you hear  
19 Commissioner Edley?

20 MS. DICKERSON: I believe I heard most of  
21 what he said.

22 CHAIRPERSON BERRY: Okay. Other  
23 Commissioners, anyone have a comment on this before we  
24 -- we need a motion, I guess.

25 VICE CHAIRPERSON REYNOSO: Madam Chair, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 just want to comment on the value of having a third  
2 party like the U.S. Commission on Civil Rights look at  
3 what the federal agencies are doing and whether or not  
4 they are complying with their statutory and regulatory  
5 duties, so I think this is particularly important role  
6 the Commission has been able to fill.

7 CHAIRPERSON BERRY: Can we get a motion?

8 COMMISSIONER MEEKS: I'll make the motion,  
9 but I do want to say that Terri, this has been a very  
10 good report.

11 MR. JIN: Second.

12 CHAIRPERSON BERRY: The motion is  
13 seconded. Any further discussion?

14 COMMISSIONER KIRSANOW: I'm not sure that  
15 we had any input from the three agencies or  
16 departments that were identified as not having fully  
17 implemented the Commission's reports. There was  
18 Interior, SBA and EPA and I'm wondering if Terri can  
19 tell us whether we expect any kind of response from  
20 them or have we requested a response and they've  
21 neglected to reply?

22 MS. DICKERSON: Yes. Along with the other  
23 agencies, they were sent the report and given a  
24 deadline for responding and we didn't receive any  
25 responses from them.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   CHAIRPERSON . BERRY:                Would     the  
2                   Commissioners wish to formally reiterate the request  
3                   to them to respond before we actually publish this or  
4                   should we just note that they didn't respond?

5                   COMMISSIONER KIRSANOW:        My preference  
6                   would be that we give them another chance to get some  
7                   type of response back, give them a firm deadline and  
8                   if they fail to do so and also give them notice that  
9                   this report is going to be issued at some point or  
10                  maybe vote upon or consider by the Commission at some  
11                  point absent their opportunity to have some input.

12                  CHAIRPERSON BERRY:    Now, we have to vote  
13                  on it today because the statutory report is due before  
14                  the beginning of the fiscal year. We don't actually  
15                  have to -- we could wait and give them some time to  
16                  include what they say as the staff revises it before  
17                  it actually be issued, while we're not meeting in  
18                  August. We can do that, which would satisfy, I think,  
19                  your concern that they have yet another opportunity.

20                  MS. DICKERSON:        I wanted to clarify  
21                  something that maybe isn't apparent from the report.  
22                  In Volume 1, we really didn't -- those particular  
23                  agencies that Commissioner Kirsanow just mentioned,  
24                  those reports were only summaries of what the  
25                  Commission has said previously.        Those findings

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 weren't new and the only new findings were with  
2 respect to Volume 2 and the Departments of Labor,  
3 Transportation and Justice.

4 CHAIRPERSON BERRY: So this means that you  
5 will be doing the same kind of study you did of  
6 Justice, Labor and Transportation of those departments  
7 in a later volume?

8 MS. DICKERSON: Yes.

9 CHAIRPERSON BERRY: And we'll then get  
10 another further opportunity.

11 So all they really didn't comment on was  
12 your summary of all the things we recommended before,  
13 is that what you're saying, Terri?

14 MS. DICKERSON: They are only mentioned in  
15 Volume 1 which is really just a summary of past  
16 Commission reports.

17 CHAIRPERSON BERRY: So does that satisfy  
18 you, Commissioner?

19 COMMISSIONER KIRSANOW: Not quite. I  
20 think I still would prefer that they have an  
21 opportunity to respond. Give them notice of this and  
22 give them an opportunity to respond.

23 CHAIRPERSON BERRY: Okay, so now they've  
24 had one opportunity. We will give them, if this goes  
25 forward, if we vote to approve the report, you can

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 inform them again, Terri, that in fact, we have voted  
2 on it. We're going to go forward with it. If they've  
3 got any comments, please get them in by the time you  
4 have to go to print this.

5 MS. DICKERSON: Okay.

6 CHAIRPERSON BERRY: Any further  
7 discussion? Yes, Commissioner Braceras?

8 COMMISSIONER BRACERAS: I do have some  
9 concerns about some of the recommendations,  
10 particularly the recommendations that special interest  
11 groups be brought into the process of making policy on  
12 a consistent and regular basis. And I know that a lot  
13 of this is just reiterating recommendations that we  
14 made in the past, but I certainly wasn't here to make  
15 those recommendations, nor would I have agreed to such  
16 recommendations, so that is a substantive concern I  
17 have.

18 CHAIRPERSON BERRY: Anyone else have any  
19 comments on the report?

20 Okay, all right, then I call for the  
21 question on the motion.

22 VICE CHAIRPERSON REYNOSO: Motion.

23 CHAIRPERSON BERRY: All those in favor  
24 indicate by saying aye.

25 (Ayes.)

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   Opposed.

2                   (Nos.)

3                   Give me a roll, somebody.

4                   Thank you, Audrey.       This is on the

5                   statutory report.

6                   Commissioner Braceras?

7                   COMMISSIONER BRACERAS: Yes.

8                   CHAIRPERSON BERRY: Commissioner -- Vice

9                   Chair Reynoso?

10                  VICE CHAIRPERSON REYNOSO: Yes.

11                  CHAIRPERSON BERRY: Commissioner Kirsanow?

12                  COMMISSIONER KIRSANOW: No.

13                  CHAIRPERSON        BERRY:               Commissioner

14                  Thernstrom?

15                  COMMISSIONER THERNSTROM: No.

16                  CHAIRPERSON BERRY: Berry, yes.       The

17                  motion passes by a vote of 4 to 3.

18                  So ordered.

19                  **VII. Discussion of staff report and recommendations**

20                               **on the civil rights implications of welfare**

21                                       **reauthorization**

22                  CHAIRPERSON BERRY: The next item on the

23                  agenda is the discussion of staff report and

24                  recommendations on the civil rights implications of

25                  welfare reauthorization. You received a memo and some

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 recommendations. We can proceed with the discussion,  
2 but my own view -- the Staff Director -- since the  
3 memo was for our information and there were a lot of  
4 things in the memo that either people agree or  
5 disagree with or that are social policy concerns that  
6 are subject to debate, that we simply focus on the  
7 recommendations concerning civil rights issues and  
8 decide whether or not we support the recommendations.  
9 That's my suggestion. And then see if there are any  
10 other recommendation that people want to include. In  
11 other words, we're not asking -- not being asked to  
12 adopt the briefing memo. What we're being asked to do  
13 is decide whether we agree with the recommendations  
14 and to add any others that we would like to add.

15 Could I get a motion to do that?

16 COMMISSIONER MEEKS: I'll move.

17 CHAIRPERSON BERRY: Could I get a second?

18 COMMISSIONER EDLEY: Second.

19 CHAIRPERSON BERRY: Okay. So the motion  
20 that's on the floor is that we agree to the  
21 recommendations and then there may be other  
22 recommendations that people will want to add in a  
23 subsequent motion.

24 So the first motion would be to agree with  
25 the recommendations that are there and then after

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that, if there are others that people want to add, we  
2 would move those.

3 Commissioner Meeks?

4 COMMISSIONER MEEKS: So how would we do  
5 that, one recommendation at a time?

6 CHAIRPERSON BERRY: Why don't we do all  
7 the recommendations that are there. Let's try first  
8 saying all the recommendations that are there. And if  
9 that doesn't work, then we'll do one by one. There  
10 might be others added.

11 COMMISSIONER THERNSTROM: Does somebody  
12 have an extra copy of these recommendations?

13 CHAIRPERSON BERRY: Just a minute.

14 COMMISSIONER MEEKS: Well, actually, what  
15 I meant was I think we should agree wholly on them or  
16 not agree, but vote on the recommendations here, but  
17 I'm just talking about amendments to them or  
18 additions.

19 CHAIRPERSON BERRY: All right.

20 COMMISSIONER MEEKS: How would we do that?

21 CHAIRPERSON BERRY: All right, here's what  
22 we'll do. We'll vote on the recommendations and in --  
23 when we have the discussion, you can propose  
24 amendments to specific ones and then the motion at the  
25 end can be -- the approval can be with the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 understanding that they are amended by what you say in  
2 the discussion. How's that?

3 Yes, Commissioner Edley?

4 COMMISSIONER EDLEY: I'm a little confused  
5 as to what we should be thinking as of the list of  
6 recommendations. Because in the documents I have  
7 there's an executive summary that has some things in  
8 boxes.

9 CHAIRPERSON BERRY: Okay, it's number 7.  
10 It's under number 7 in the book.

11 COMMISSIONER EDLEY: There's a long side  
12 by side table which has about 2.3 zillion  
13 recommendations.

14 CHAIRPERSON BERRY: What we want Terri to  
15 do who is going to do this for us is to just list out  
16 for us the recommendations.

17 MS. DICKERSON: I'm sorry, are you talking  
18 to me?

19 CHAIRPERSON BERRY: Can you hear me,  
20 Terri?

21 MS. DICKERSON: Very, very faintly.

22 CHAIRPERSON BERRY: Can you hear me now?

23 MS. DICKERSON: I think I can, yes. And I  
24 think you're talking about the welfare policy paper?

25 CHAIRPERSON BERRY: Right. Here's what

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we'd like to do and we move to do that and that is to  
2 consider whether we want to approve the  
3 recommendations that are in the staff paper.

4 MS. DICKERSON: Yes.

5 CHAIRPERSON BERRY: And that is seeing the  
6 information that is in there, the narrative as  
7 information for us and description for us of the  
8 issues. But what we want to vote on is the  
9 recommendations. Do you understand?

10 MS. DICKERSON: Yes.

11 CHAIRPERSON BERRY: So could you describe  
12 for us from the paper what the recommendations are?

13 COMMISSIONER THERNSTROM: There's no list  
14 here.

15 MS. DICKERSON: Okay, you're not talking  
16 about one by one. You're just talking about in  
17 general, is that right?

18 CHAIRPERSON BERRY: I'm trying to find my  
19 paper, just a minute. I think I have it here. It's  
20 under number -- just a minute, Terri.

21 MS. DICKERSON: Okay.

22 CHAIRPERSON BERRY: Number 7, I think.

23 (Pause.)

24 CHAIRPERSON BERRY: Terri, I am talking  
25 about the material that is in the boxes in the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 executive summary.

2 MS. DICKERSON: Okay.

3 CHAIRPERSON BERRY: Those are the overall  
4 recommendations, right?

5 MS. DICKERSON: Yes. Let me distinguish  
6 between those and what's in the table. The table  
7 contains about 40 recommendations and the ones that  
8 are in the boxes of the executive summary really take  
9 all of those 40 and summarize them. So everything  
10 that's in the 40 recommendations in the table should  
11 be, is represented in the boxes in the executive  
12 summary.

13 CHAIRPERSON BERRY: So when I say we're  
14 going to consider the recommendations and whether we  
15 are going to approve them, I'm talking about these  
16 boxes that -- with the lines around them in the first  
17 part of this document that is the executive summary,  
18 that's what I mean.

19 MS. DICKERSON: Yes.

20 CHAIRPERSON BERRY: Okay. Now if you want  
21 to say something to us, in general, about the  
22 recommendations, please do and then we'll proceed.

23 MS. DICKERSON: I guess, in general, a  
24 concern was that there are still some -- even with the  
25 White House proposals and the House and Senate, the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 House bill and the Senate proposal, there still are  
2 some very important civil rights concerns that are  
3 overlooked and the proposals only go so far to address  
4 civil rights concerns and in fact, in some cases may  
5 make some civil rights concerns even more prominent.

6 Let me give you some examples. None of  
7 the proposals really -- we really recommend that there  
8 be a clear applicability of civil rights and labor  
9 laws and that legal requirements of state agencies and  
10 employers is really part of what finally gets past.

11 We think that the recommendations say that  
12 there should be funding for stronger enforcement of  
13 civil rights laws, in general, and much more funding  
14 for training of case workers because there is  
15 disparate treatment, there is -- depending on the  
16 recipient, there is a difference between how the  
17 benefits that people of color receive versus others as  
18 well as how long they are on the rolls or what kind of  
19 service they get from case workers, so there really  
20 needs to be a lot more put into training of case  
21 workers and outreach.

22 We think that there should be a collection  
23 and dissemination of data on the recipients on who was  
24 denied benefits or who was exempted from requirements.  
25 The Department of Health and Human Services should

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 really collect and disseminate more standardized data  
2 by race on welfare recipients so that we can -- this  
3 can be monitored.

4 We also recommend that immediately full  
5 benefits be restored to legal immigrants regardless of  
6 their date of entry and without reliance on sponsors'  
7 incomes for eligibility which is what the current  
8 situation is.

9 We have a recommendation that the  
10 workload, I'm sorry, the work requirement not be  
11 increased as the proposal would do and in some cases  
12 that it would be reduced, particularly because this  
13 effect, this legislation affects single parents and  
14 individuals with disabilities and in this economy  
15 part-time work is sometimes the only work that people  
16 can get, so increasing the workload, we really think  
17 goes against what needs to be -- what needs to happen  
18 in order for people to be successful in this program  
19 and be lifted out of poverty and in a better  
20 situation, after they are off the welfare rolls.

21 We think there should be increased funding  
22 for child care because child care funding has been  
23 insufficient, even in the current, under the 1996 Act.

24 We recommend that child care and care for  
25 elderly or disabled people and families count toward

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the work requirement. We recommend that the time  
2 limits for people who have legitimate barriers to  
3 employment, even if they're temporary, like people who  
4 are in rehab programs or for substance abuse, or  
5 people who can only find part-time work or people who  
6 have a low education level that the time limits for  
7 those with legitimate barriers be eliminated and we  
8 are recommending that the focus go from case load  
9 reduction to poverty reduction and that state bonuses  
10 should be based on reducing poverty, not just reducing  
11 case load. And instead, give bonuses for lifting  
12 people out of poverty.

13 We are recommending that there be a broad  
14 range of education programs that be deemed acceptable  
15 as work activities like adult basic education,  
16 literacy training, GED prep classes. None of those  
17 can really count as work requirement, but they really  
18 should because they are part of helping people to lift  
19 themselves out of poverty and become more  
20 self-sufficient.

21 We recommend that the education time  
22 limits and participation ceilings be eliminated. The  
23 current law places a 12-month limit on vocational  
24 education and allows states to count education as work  
25 activity for only 20 percent of recipients and time

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 limits don't allow people to complete an academic  
2 program that will really raise their job  
3 marketability.

4 We recommend that the clock, if you will,  
5 be stopped for those are employed, even if they're  
6 only employed on a part-time basis.

7 As for tribes, Indian tribes. We  
8 recommend that they receive resources and technical  
9 assistance to help them establish offices and help  
10 them to build infrastructure. I know everyone knows  
11 from reading the paper that tribes can run their own  
12 welfare programs, but they need to have assistance in  
13 terms of transportation vouchers and other things that  
14 will help them to be more successful.

15 We are recommending that tribes also  
16 receive performance incentives just as states do.  
17 States receive bonuses for poverty reduction and we  
18 believe that tribal offices should do the same and we  
19 believe that the legislation should provide tribes  
20 grants for educational programs, transportation and  
21 economic development.

22 Overall, none of the proposals address  
23 customer service and eliminating bureaucratic hurdles  
24 and establishing minimum standards for service  
25 delivery by states and by case workers and we really

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 think that overall, across the board, going out into  
2 the field and providing child care during visits or on  
3 site visits to low income communities, all of those  
4 need to be done. Some states are and some aren't, but  
5 there need to be some standards for service delivery  
6 to help people to participate in the program and to go  
7 through the program.

8 Language assistance ought to be provided  
9 which is one of our recommendations. This is required  
10 by law, but it really isn't done or monitored.

11 There was a lot of misinformation after  
12 the 1996 law, for example, with respect to immigrant  
13 eligibility. Some states and case workers  
14 misinterpreted the law and so a lot of people who were  
15 eligible didn't receive benefits, so there needs to be  
16 much more case worker training so that they will know,  
17 be aware of what's available and be able to help  
18 people to participate.

19 And we are recommending providing regular  
20 technical assistance to individuals in navigating the  
21 system, focusing on immigrants, hard to reach  
22 communities, people who might be illiterate and  
23 therefore can't read printed information that's  
24 circulated.

25 And just in general, I think all of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 recommendations fall under the category of remedying  
2 the inadequacies of the earlier law and addressing the  
3 needs of certain populations because people of color  
4 and low income people are the ones who are  
5 disproportionately affected by this legislation and it  
6 needs to have mechanisms that move people toward  
7 self-sufficiency and the proposals really don't go far  
8 enough to do it and we believe that the  
9 recommendations take it to the next level.

10 CHAIRPERSON BERRY: Okay, all right. I  
11 know Commissioner Meeks you've had some amendments or  
12 changes you wanted on the section having to do with  
13 Indian tribes.

14 COMMISSIONER MEEKS: Yes. I think  
15 overall, the recommendations that are stated are  
16 really good. I just would like to work with the staff  
17 on strengthening them, especially on accessing  
18 sufficient on-going administrative resources  
19 incentives that she mentioned in the report,  
20 particularly the high performance bonus, the  
21 contingency fund, technical assistance and research  
22 and building the infrastructure, helping tribes build  
23 infrastructure. And also, I would like to mention  
24 economic developing, having flexible resources for  
25 economic development, because without that, no matter

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 how good the legislation, welfare reform, it's going  
2 to have limited success, because there's just not any  
3 jobs in Indian country.

4 CHAIRPERSON BERRY: So we could agree we  
5 pass this that you -- these would be in the matter of  
6 editorial changes and amendments and additions and  
7 that we go into that section that you would work out.

8 Does anyone have any other -- just to this  
9 section, any other changes? Yes, Commissioner  
10 Thernstrom?

11 COMMISSIONER THERNSTROM: No, I have a  
12 general comment about the report, not to -- it's not  
13 specifically on the Meeks suggestion. Can I --

14 CHAIRPERSON BERRY: Go ahead.

15 COMMISSIONER THERNSTROM: Well, I'm just  
16 not convinced that these issues are civil rights  
17 issues that are appropriate for this Commission.  
18 Increasing the workload is not a civil rights issue.  
19 Ditto with child care. Ditto with the education  
20 programs. And I mean unless you object to the fact  
21 that a disproportionately high number of minorities  
22 receive welfare benefits, you can hardly object to the  
23 disproportionate impact of the rules governing those  
24 benefits. In addition, there are a lot of changes of  
25 ethnic and racial discrimination and absolutely no

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 documentation, no evidence, not even footnotes that  
2 suggest where these charges come from. They are  
3 simply assertions and I would say -- assertions about  
4 case workers, when of course many case workers are  
5 people of color. I mean I looked at this and it's --  
6 unless a more careful job is done (1), it seems to me,  
7 link this to the legitimate work of the Commission and  
8 (2) to document the charges being made, it seems to me  
9 this is, alas, not a good report.

10 CHAIRPERSON BERRY: Terri, do you have any  
11 comments on why this a civil rights issue?

12 MS. DICKERSON: Yes. We, in the paper,  
13 pointed out and I'm just briefly going to summarize  
14 that women and people of color do disproportionately  
15 rely on public assistance and they really, these  
16 policies really affect these populations  
17 disproportionately. And as well, the policies affect  
18 immigrants. They affect tribes. To a great extent  
19 they affect in fact, individuals with disabilities.  
20 As such, they are civil rights issues.

21 There are proven disparities in access to  
22 an utilization of services that -- and there is proven  
23 discrimination in the delivery of benefits which we  
24 cited in the report.

25 Study after study shows that there is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 differential treatment in the access to services that  
2 is experienced by some of these populations and that  
3 really makes it welfare, the whole legislation in our  
4 view, a civil rights issue.

5 COMMISSIONER THERNSTROM: Well, you know,  
6 Terri, by that criterion every public policy issue in  
7 America is a civil rights issue, everything. People  
8 of color are Americans and every policy one way or  
9 another affects them. I mean this is a definition  
10 that just doesn't satisfy me as legitimizing these  
11 recommendations.

12 MS. DICKERSON: I think part of the point  
13 is that they are treated differently within this and  
14 so the legislation really doesn't go far enough to  
15 protect the populations that are treated,  
16 disproportionately affected and treated differently.

17 COMMISSIONER THERNSTROM: I would say you  
18 haven't established that they are treated differently.  
19 It really needs to be established with a lot more  
20 intellectual rigor than it's been established in this  
21 report.

22 CHAIRPERSON BERRY: Let me just point out  
23 that this is not a right, is that right, Terri?

24 MS. DICKERSON: Paper.

25 COMMISSIONER THERNSTROM: Whatever.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MS. DICKERSON: It's a briefing memo for  
2 the Commissioners.

3 CHAIRPERSON BERRY: Commissioner Edley?

4 COMMISSIONER EDLEY: I think that as the  
5 Chair and some of the other Commissioners know, I  
6 think I am in some agreement with Commissioner  
7 Thernstrom on the question of the breadth or the  
8 ambition or whatever it is of some of the reports and  
9 things that we undertake here and do agree that that  
10 as a general matter we run some questions, run into  
11 some questions if we decide to investigate anything,  
12 any matter of social policy simply because it is of  
13 particular concern to groups about whom we're  
14 concerned as a Commission.

15 And this was indeed one of my strong  
16 reservations when we agreed to do this project on  
17 welfare reform in the first instance. And I may have  
18 expressed that concern at the time.

19 However, I'm going to go ahead and support  
20 the recommendations because I kind of lost that  
21 discussion back in the beginning when I had  
22 reservations about whether we should look at welfare  
23 reform and now that we have done it, and I do have  
24 qualms about areas in the recommendations. Let's just  
25 -- I want to put one side the narrative because I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 would have lots of problems with the narrative, if  
2 indeed that were going forward as a report of the  
3 Commission. But as the Chair has framed it, we're not  
4 transmitting the narrative as such with all of the  
5 particular views about whether welfare reform was a  
6 good idea or a bad idea, etcetera. So stripping that  
7 away and just focusing on the recommendations and the  
8 boxes, in the Executive Summary, there are some tonal  
9 things in there and some matters of emphasis in there  
10 that still seem to me to be problematic, but I'm gong  
11 to support the recommendations nonetheless because  
12 we've gone down this path, so fine, we'll go down this  
13 path.

14 Let me say that, and for the most part, I  
15 agree substantively with be they civil rights matters  
16 or not, I agree substantively with the  
17 recommendations. I just would want to emphasize one  
18 thing for the staff and as you discussed this on the  
19 Hill and that is that the first -- the box, let's see,  
20 I guess it's at the very first box on page 2, little  
21 Roman two. The third item concerning collection and  
22 dissemination of standardized data. I just want to  
23 underscore that because it strikes me as being quite  
24 comparable to the efforts under the No Child Left  
25 Behind Act that we've embraced in the context of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 education reform, to try to do a better job of  
2 collecting data and disaggregating that data, so as to  
3 track the effectiveness of these social programs and  
4 actually producing more opportunity. And so that is  
5 one, frankly, that excited me, among all the  
6 recommendations that we've had there. I think they're  
7 dramatically better opportunities available in this  
8 reauthorization to improve our understanding of the  
9 effectiveness of these programs.

10 And finally, let me conclude, Madam Chair,  
11 that while there are several places in here regarding  
12 time limits and so forth, work requirements that do,  
13 in my mind, skate dangerously close to, if not over  
14 the edge, that might separate civil rights policy from  
15 social policy broadly, there are some thing in here  
16 that do have to do with the discriminatory  
17 implementation or management administration of these  
18 programs and I would hope that the Staff would give  
19 those issues special attention when communicating  
20 these recommendations up on the Hill.

21 CHAIRPERSON BERRY: Could I just in the  
22 interest of time and in the interest of clarity, can  
23 you hear me, Terry?

24 MS. DICKERSON: Yes.

25 CHAIRPERSON BERRY: Just do this very

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 quickly and maybe it will help the debate, maybe it  
2 won't.

3 Beginning with the recommendations on page  
4 2 in the box, the one that -- and Commissioner Edley,  
5 I'm asking you this, the one that "this should be an  
6 opportunity to clarify and strengthen the  
7 applicability of civil rights and labor laws to  
8 participants in TANIF activities and to reiterate  
9 these requirements." Would we all agree that that is  
10 a civil rights concern?

11 COMMISSIONER BRACERAS: I'm sorry, I'm  
12 lost.

13 CHAIRPERSON BERRY: I'm starting on the  
14 first page, I mean not the first, whatever page this  
15 is.

16 Where the boxes are, see that box down at  
17 the bottom of the page, it has three things in it.  
18 Congress should take the reauthorization -- whether or  
19 not one agrees with this, we would agree, I think,  
20 that that has something to do with civil rights, I  
21 suppose.

22 The second one allocating funding for  
23 stronger enforcement of civil rights, we're already on  
24 record as saying that the Department of Health and  
25 Human Services, OCR, should have more money. We

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 reiterated that for 40 years. I think everybody would  
2 agree that that's a civil rights concern, whether you  
3 agree that they ought to get more money or not is a  
4 different issue. I think that asking HHS to collect  
5 data on recent ethnicity and the like so that we can  
6 figure out what's going on, most people would agree  
7 that that should be a civil rights concern, although I  
8 would say it ought to be collected in a useable form  
9 which I think is really important.

10 The one on collecting audits of state  
11 welfare agencies and making sure that people deal with  
12 compliance or plan for noncompliance, that most  
13 emphatically, I think, is within the purview of civil  
14 rights. I think most people would agree with that.

15 Do I hear people who say -- I'm not asking  
16 whether you agree with the recommendation, but that  
17 has something to do with civil rights. Okay. So  
18 we've got at least those in that box that have  
19 something to do with civil rights.

20 In the next box, we have the one on data.  
21 We've got a recommendation. We're already on record  
22 as asking that these benefits be put in place for  
23 legal immigrants. We've done that several times  
24 because they were being discriminated against. We  
25 established that a long time ago.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           The one on the next page, I think the  
2 first three are more problematic and can only be  
3 justified if we point out, as the Staff will do if  
4 they haven't and the data would show that there is  
5 differential treatment on the basis of race, ethnicity  
6 and the like in how these -- who these people are and  
7 how they are treated in terms of work requirements and  
8 child care and support services and the like and the  
9 impact that it has on them. But I think that that  
10 would be a different category than the first four that  
11 we've just talked about and I think most people would  
12 agree with that. The one about helping people who are  
13 disabled, the last one, defined work. We are already  
14 on record -- that's one of the recommendations we made  
15 a long time ago. I think most people agree with that  
16 that that helps to relieve unequal opportunity for  
17 people who are disabled.

18           So that I think those 1, 2, 3, 4, in that  
19 box on page 4 need to have some language pointing out  
20 how they are connected with disproportionate treatment  
21 or differential treatment of people on the basis of  
22 race and ethnicity.

23           COMMISSIONER EDLEY: I can say that where  
24 there would be elements of discretion that might --  
25 that are being exercised or that we have reason to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 fear are being exercised in a way that's  
2 discriminatory.

3 CHAIRPERSON BERRY: And the same with time  
4 limits, Terri, on the next page. The one in the box  
5 about case load reduction requires the same kind of  
6 rationale and explanation so that it's clear that it's  
7 focused on the differential treatment and the  
8 discrimination and not whether this is good social  
9 policy or not good social policy.

10 And the one down at the bottom on  
11 education needs to talk about the affected populations  
12 and any differential treatment or discretion that is  
13 used. For example, we know that there are studies and  
14 you have them cited somewhere else that show that  
15 people of color, Hispanics and African American women  
16 are less likely to get waivers to take certain kinds  
17 of education programs. Some of that language has to  
18 be there to make sure that this has -- that the  
19 differential impact is put into the recommendation in  
20 the box and not just that is bad social policy and we  
21 don't like it. The same with time limits and then if  
22 we do that, and then add the language that Elsie is  
23 talking about to the one on the Indian tribes and the  
24 way their programs work. Now the last one is a  
25 question of training and a question of if there is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 differential treatment and opportunity to have  
2 people's attention paid to their needs on the part of  
3 women of color in this box that you have on page 5, 6,  
4 7 at the bottom which is, I understood, was the case,  
5 and in how this discretion is exercised and that is  
6 related to training and sensitivity of the workers,  
7 then you have something which is on purely on civil  
8 rights issues related to discrimination and anything  
9 that's not shouldn't be there.

10 COMMISSIONER EDLEY: But Madam Chair, I'm  
11 not wildly enthusiastic about these recommendations. I  
12 mean I think that's great. One further thing, I  
13 think, that might help Terri is that in those places  
14 where there are not reputable studies by the Urban  
15 Institute and others, I know the organization has been  
16 spending a gazillion dollars doing a lot of this, if  
17 there are not reputable studies establishing the fact  
18 of these kinds of disparate treatment and differential  
19 exercise of discrimination, then I would characterize  
20 it as a recommendation that preventive or  
21 prophylactic, that safeguards be adopted in order to  
22 ensure that these risks of discrimination don't, in  
23 fact, eventuate. So I think -- let me state that --  
24 try to state that more clearly.

25 There are data in some areas suggesting a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 problem exists. I think in other places, experience  
2 and the logic of the program suggest that there is a  
3 risk though that risk may not yet be demonstrated  
4 scientifically and as to that latter category, I think  
5 our recommendation should be that Congress adopt  
6 appropriate safeguards, Congress and the  
7 Administration adopt appropriate safeguards.

8 CHAIRPERSON BERRY: Did you understand  
9 that, Terri?

10 MS. DICKERSON: Yes.

11 CHAIRPERSON BERRY: Okay.

12 COMMISSIONER THERNSTROM: A couple of  
13 comments. One, as everybody knows, I'm all for data,  
14 but as Commissioner Edley just indicated, a lot of  
15 data is being collected. The Urban Institute does  
16 have a gazillion dollars to do so. These questions  
17 are being followed very carefully. There is no data  
18 in this report, most notably, and if there are no  
19 reputable studies showing disparate impact or  
20 disparate treatment, it may be because there is not a  
21 problem that anybody with the existing data and lots  
22 of it has been collected at the federal level, at the  
23 state level, at the local level, has found that that  
24 is a problem and this report reads as if time had  
25 stood still in the welfare offices since about 1965.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Then the other -- two other comments. For  
2 instance, on this first, Congress should take the  
3 reauthorization of welfare reform as an opportunity to  
4 clarify and strengthen the applicability of civil  
5 rights, etcetera. This assumes that civil rights laws  
6 with respect to welfare needs strengthening. That is  
7 still to be established, it seems to me. Ditto with  
8 case workers not properly trained. That has yet to be  
9 established. I'm not convinced that that's the case.

10           And it's just -- you want to make a case  
11 for what we're recommending. Fine. But this paper  
12 does not make that case and again, any solid case has  
13 to be made with solid data.

14           CHAIRPERSON BERRY: Now in the interest of  
15 time, can we take up the motion. And if the motion  
16 passes, it will be with the understanding that the  
17 staff will do exactly what we have suggested and to  
18 cite the studies and to flesh out the contextual basis  
19 of the recommendations in the way we have described it  
20 here, and that they will listen to the amendments  
21 clarified by Commissioner Meeks and that they will go  
22 forward, if it passes in this way. And the  
23 understanding clearly, Terri, is that the paper that  
24 you guys wrote is not a report and is not anything to  
25 issue. The recommendations, as well as the rationale

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 for them, with the citations that we've discussed  
2 today is what the Commission supporting in this regard  
3 and that is what we will prepare, what we will issue  
4 and what we will put on our website and what we will  
5 talk with the staffs on the Hill about.

6 Could I get a call for the question?

7 (Vice Chairperson Reynoso nods.)

8 CHAIRPERSON BERRY: All those in favor of  
9 the motion as it is has been stated, indicate by  
10 saying aye.

11 (Ayes.)

12 Opposed.

13 (Nos.)

14 The motion --

15 MS. DICKERSON: May I just say one thing,  
16 please?

17 CHAIRPERSON BERRY: Yes.

18 MS. DICKERSON: I neglected to thank Marie  
19 Zesnus who prepared this report. She's a civil rights  
20 analyst from the staff and I meant to do that at the  
21 beginning.

22 CHAIRPERSON BERRY: Okay, thank you very  
23 much.

24 Commissioner Braceros?

25 COMMISSIONER BRACERAS: No.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON BERRY: Commissioner Edley?  
2 COMMISSIONER EDLEY: Yes.  
3 CHAIRPERSON BERRY: Commissioner Meeks?  
4 COMMISSIONER MEEKS: Yes.  
5 CHAIRPERSON BERRY: Commissioner Kirsanow?  
6 COMMISSIONER KIRSANOW: Yes.  
7 CHAIRPERSON BERRY: Vice Chair Reynoso?  
8 VICE CHAIRPERSON REYNOSO: Yes.  
9 CHAIRPERSON BERRY: Commissioner  
10 Thernstrom?  
11 COMMISSIONER THERNSTROM: No.  
12 CHAIRPERSON BERRY: Berry, yes. Motion  
13 passes, 4 to 3.  
14 Let me say before, if I can find my  
15 agenda, oh there it is. We're going to have some  
16 presentations from our SACs, but before we do that, I  
17 neglected and I would like you to move that it's  
18 appropriate for us to do it briefly, to -- Homeland  
19 Security, I should have done under the Staff  
20 Director's Report and I forgot to do it.  
21 So is it all right, does anyone object to  
22 us doing this quickly? You got an op. ed. piece and  
23 if you object, we can have a motion, from Chris Edley  
24 that was published in the Post on Sunday, July 14th  
25 and you have a discussion piece from the Staff on

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Homeland Security. And could I just get a motion?  
2 Could someone move that we take that up at this time?

3 COMMISSIONER MEEKS: I'll move to take  
4 that up. I thought it was excellent.

5 CHAIRPERSON BERRY: Could I get a second?

6 COMMISSIONER EDLEY: Second.

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

9 (Ayes.)

10 Opposed?

11 (No response.)

12 Okay, the question is whether we would  
13 like to take some action on this subject of a civil  
14 rights office or a civil liberties office in the  
15 proposed Homeland Security Department if the Homeland  
16 Security Department is ever enacted and if it is  
17 enacted in the way that it is being proposed. There  
18 have been a number of issues raised about the absence  
19 of a civil rights office. Just by way of context, the  
20 Civil Rights Commission has over the years on numerous  
21 occasions, recommended when Departments were created  
22 or reorganizations took place in the government and so  
23 on, that civil rights functions of various kinds be  
24 either established or pursued. The Commission also  
25 was one of the bodies that recommended the Inspector

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 General operations that are in abundance now in  
2 various Departments. And your paper tells you, your  
3 briefing paper, memo, tells you that there are lots  
4 and lots of issues that have been raised. Many of  
5 them have been in the news about what the government  
6 is doing in the area of civil rights and civil  
7 liberties in the activities around the threat of  
8 terrorism and the terrorist things that have already  
9 taken place. And so in a way it's a pro forma  
10 discussion of the kind that we would be having if any  
11 kind of Department was set up anywhere in the  
12 government. We would come to emphasizing that there  
13 ought to be a nice civil rights function so that  
14 Terri's shop could monitor and find out what they're  
15 doing and so we'll know what they're doing. So this  
16 comes as not something unusual for the Commission. And  
17 so Christopher, do you want to say anything else about  
18 your proposal?

19 COMMISSIONER EDLEY: Sure, briefly. My  
20 thoughts on it and I was very gratified to see that  
21 the staff paper substantially tracks what I had  
22 suggested in this op. ed. from last weekend. Let me  
23 just emphasize three things in what I was trying to  
24 put forward. The first is that this is not about  
25 where to draw the line between civil liberties and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 civil rights on the one hand and the prosecution of  
2 the War on Terrorism on the other. There are always  
3 going to be debates about what constitutes racial  
4 profiling, when should a mosque be bugged, who should  
5 have access to counsel, which kind of detainees should  
6 be transferred to a military tribunal and so forth.  
7 That's one very important realm of debate and I expect  
8 that as time goes on this Commission will be a part of  
9 those discussions.

10 But for purposes of this proposal, I'm  
11 putting all of that to one side and asking a quite  
12 different question and that is wherever that line is  
13 drawn in law and policy, it seems to me critically  
14 important, number one, that Congress and the public be  
15 made aware of that line, if lines are being drawn  
16 somewhere in the dark in the interest of the  
17 bureaucracy, that Congress and the public be made  
18 aware of where the lines are being drawn, how the  
19 balances are being struck.

20 And number two, that there be effective  
21 oversight to ensure that the line is being towed, that  
22 the policies are being obeyed. So that's point number  
23 one. This is not really about the substance of how  
24 the balance is struck, but rather about an effective  
25 oversight mechanism to see to it that whatever those

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 policies are, they're not secret and that they're  
2 being complied with.

3           Number two is an observation that the  
4 regular arrangements, Offices for Civil Rights and  
5 Inspectors General aren't good enough because they're  
6 not comprehensive enough. They don't typically -- at  
7 least the Offices for Civil Rights or the Privacy  
8 Office that's spoken of in the House bill, don't have  
9 sufficient powers in terms of subpoena powers,  
10 investigatory powers and the like. And I think that  
11 we need an oversight mechanism in this war-fighting  
12 context that will be able to deal with all the issues  
13 of secrecy and classification that are required. A  
14 lot of this is going to have to be in secret and so  
15 we're talking about the need to create a mechanism  
16 that may not be fully transparent to the public, but  
17 yet in its existence gives us some better legitimacy  
18 for the war-fighting effort, so that seems to me to be  
19 critical. And that's the second point I wanted to  
20 make.

21           Third and finally, just one small  
22 disagreement that I do have with the Staff  
23 recommendation. As I thought about this and I thought  
24 about the President in the President's Foreign  
25 Intelligence Advisory Board, and the like, it seemed

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 to me that having a Senate appointed -- I mean a  
2 presidentially-appointed Senate confirmed director of  
3 an Office of Rights and Liberties was very important,  
4 but that an added safeguard in terms of again, this  
5 issue of public legitimacy would be to have an  
6 advisory board to the office, not under FACA as the  
7 Staff has recommended, but rather with appointments  
8 made by the President and by the Congress, similar to  
9 the way that this Civil Rights Commission is  
10 constituted. A difference, of course, is that this  
11 would be a largely confidential exercise. Many, if  
12 not most of the discussions would be classified,  
13 unlike ours, but it seems to me that FACA is not  
14 appropriate given the nature of the issues at stake.  
15 And again, the two principal safeguards it seems to me  
16 that are being created by a mechanism of this sort are  
17 the reporting to the Congress and the President in a  
18 classified way and to the public in an unclassified  
19 form. And secondly, creating this capacity for a very  
20 thorough monitoring of what's happening in the  
21 detention facilities, how the FBI, how Homeland  
22 Security, how all the agencies, government-wide, not  
23 just within the new Department are comporting with  
24 whatever the policies turn out to be.

25 Thanks, Madam Chair.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 CHAIRPERSON BERRY: Okay, can we first get  
2 a motion to approve a Commission position that there  
3 should be a civil rights agency or entity within the  
4 Department of Homeland Security, should it be created,  
5 with the details to be worked out, in general, along  
6 the lines as proposed by Edley, with the details to be  
7 worked out by the Staff. But that, in general, we are  
8 in favor of a civil rights entity in the Department of  
9 Homeland Security and believe that that is essential  
10 and that that is the position of this Commission.

11 Could we get a motion that that is the  
12 case?

13 COMMISSIONER BRACERAS: Can we have a  
14 discussion?

15 CHAIRPERSON BERRY: We'll have it after  
16 the motion is introduced.

17 Could we get a motion?

18 COMMISSIONER EDLEY: So moved.

19 CHAIRPERSON BERRY: Could I get a second?

20 COMMISSIONER MEEKS: Second.

21 CHAIRPERSON BERRY: Discussion. Yes?

22 COMMISSIONER BRACERAS: Well, I think this  
23 is a very serious proposal. In my mind, it's one of  
24 the most serious we've addressed since I've been on  
25 the Commission and I have some very significant

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 concerns with it.

2 To begin with, I think that the underlying  
3 premise of the proposal is that the current mechanisms  
4 for safeguarding American civil rights are inadequate.  
5 That is an assumption with which I wholeheartedly  
6 disagree.

7 The second assumption underlying the  
8 proposal is that the government needs to improve its  
9 legitimacy in fighting the War on Terrorism and at the  
10 same time preserving civil rights. That is another  
11 assumption with which I wholeheartedly disagree. I  
12 believe the polling data indicates the public is quite  
13 confident with the government's ability to balance  
14 those interests which are sometimes competing, and I  
15 believe that our government has thus far done an  
16 excellent job in fighting the War on Terror and  
17 safeguarding the civil rights of all American  
18 citizens.

19 Quite frankly, I would ask that  
20 Commissioner Edley point me to the particular  
21 deprivations of civil rights which concern him so much  
22 because I think we all know that in the aftermath of  
23 9/11 there were some instances of egregious hate  
24 crimes against Arab Americans and Muslim Americans and  
25 luckily those instances were acted upon by our

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 government and prosecutions have been brought and I  
2 think our government has acted quite swiftly to handle  
3 some of those private acts of violence. And  
4 certainly, we all want to discourage things like that  
5 from occurring, but as far as our government's own  
6 actions, I think that our government has acted quite  
7 reasonably, quite honorably and I frankly don't see  
8 any pattern of egregious civil rights violations by  
9 our government. So I'd be curious as to what the  
10 Commissioners believe those are.

11 I would also say that Commissioner Edley  
12 says that this is not a substantive debate, that this  
13 is simply a question of where we will draw the lines,  
14 but how we will monitor how those lines are enforced.  
15 I disagree. I think that it will inevitably become  
16 substantive.

17 Our own Office of Civil Rights Evaluation  
18 just gave us a major presentation on other civil  
19 rights agencies in our government and one of their  
20 complaints with how those agencies operate was that  
21 those agencies don't do enough to set policy, don't do  
22 enough to involve special interest groups in the  
23 setting of policy and the filing of litigation. And  
24 that civil rights agencies across our government  
25 should be involved in setting policy.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I do not think that we can have a  
2 discussion about setting up an Office of Civil Rights  
3 in the Department of Homeland Security without it  
4 becoming substantive, because clearly this Agency  
5 believes that those offices should have a substantive  
6 role.

7 So I do not think that a separate Office  
8 of Civil Rights inside the Department of Homeland  
9 Security should be setting civil rights policy. I  
10 think our civil rights policy in many ways is already  
11 set and to the extent it needs changes, that can be  
12 done by existing civil rights agencies.

13 And finally, I would say I am concerned  
14 that the Department of Homeland Security will be  
15 dealing with obviously information that is more  
16 sensitive than that dealt with in other departments,  
17 that it will be dealing with classified information  
18 and I know that Commissioner Edley said we could  
19 recommend mechanisms for keeping information  
20 classified and on a need to know basis. I have  
21 concerns about whether that would actually -- whether  
22 we would actually be able to do that, so I look  
23 forward to seeing what those recommendations would be.  
24 But I do have concerns about that.

25 But my overall concerns have to do with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the underlying premise of this proposal and I  
2 certainly do not want to endorse or put my name on  
3 anything that will hamper the efforts of our  
4 government to keep us safe.

5 CHAIRPERSON BERRY: Vice Chair?

6 VICE CHAIRPERSON REYNOSO: Yes, Madam  
7 Chair. There's precedent for this type of check  
8 within an agency. I happen to serve on a Commission  
9 dealing with immigration reform which resulted  
10 eventually in legislation summarized as IRCA,  
11 Immigration Reform Act. That Commission was set up  
12 during President Carter's Administration and finally  
13 reported to President Reagan.

14 And there was a concern there that even  
15 though there are laws against discrimination, that one  
16 of the effects of some of the changes and  
17 recommendations that we made would make for increased  
18 discrimination against a folk -- particularly of  
19 Mexican ancestry and other folk who form large blocks  
20 of this country's population which have recent, some  
21 have recent influxes of immigrants. So a  
22 recommendation was made that a special office be  
23 included within those changes that would be  
24 particularly vigilant in protecting rights against  
25 ethnic discrimination which already would have been a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 violation of federal law. And in fact, it's worked  
2 very well. I've known some of the gentlemen who  
3 headed up that office within the Justice Department. I  
4 recall on one occasion when all folk of Latin ancestry  
5 were fired from some casinos in Reno, folk not  
6 understanding that it was a violation of law and they  
7 were sort of tired of dealing with the paperwork of  
8 hiring people who to them "looked Mexican" a quick  
9 trip by the Director of that agency explaining to the  
10 owners of those casinos what the law said and that  
11 they had violated the law caused them to immediately  
12 rehire all of the individuals who had been improperly  
13 fired. So in fact, it turned out to be quite  
14 effective.. It has been a quite effective portion of  
15 that reform law.

16 It strikes me in a like manner issues of  
17 civil rights are bound to come up in this suggested  
18 new Department and it seems to me very appropriate as  
19 it was with the immigration reform to have an office  
20 within that department that brings those matters to  
21 the attention of the director of that department.

22 CHAIRPERSON BERRY: Ms. Thernstrom?

23 COMMISSIONER THERNSTROM: Well, I'm also  
24 in disagreement with this idea. The first duty of our  
25 government, of course, is to keep us safe and ensure

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the survival of the nation and I don't have the deep  
2 suspicion that is built into this proposal that our  
3 government is going to ignore civil liberties and  
4 civil rights and that Congress, the monitoring of  
5 Congress, the monitoring -- the fact that the courts  
6 are open to plaintiffs, the fact that there are a  
7 zillion advocacy groups and public interest law firms  
8 and so forth which will also be watching this, that  
9 that whole package is insufficient.

10 I'm also impressed with the fact that  
11 whoever is the director of Homeland Security, Tom  
12 Ridge or whoever it might be and other officials in  
13 the agencies, they are all constitutional officers.  
14 They have a duty to uphold the Constitution. It is  
15 not a separate function protecting civil liberties and  
16 civil rights is not a separate function. That is  
17 their job as well.

18 There are no other civil rights offices  
19 within agencies with the one exception of the Justice  
20 Department which the Civil Rights Division of Justice  
21 which enforces explicit statutory mandates. There are  
22 no other offices which function as a check on the  
23 Secretary and other officials. No other offices which  
24 have substantive policy responsibility, whether you  
25 look at HUD or Labor or what have you to the best of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 my knowledge.

2 And I would repeat what Commissioner  
3 Braceras has just said. What rights have been  
4 violated? Show me the constitutional rights that have  
5 been violated at Camp X-ray or elsewhere and show me  
6 evidence of a lack of concern in this country. This  
7 is a country that is highly sensitive to these issues.  
8 There will be an on-going debate and that is our best  
9 protection.

10 . Indeed, if there isn't an on-going debate  
11 and if the courts are useless, and if Congress is  
12 useless, then such an office will be useless.

13 If the climate in this country so changes  
14 that there is really no public will for such  
15 protection, then such an office would be useless and  
16 the notion, the references -- well, reference to the  
17 Alien and Sedition Act is just not relevant, but to  
18 the Japanese Internment Act, this is a different  
19 country than it was at that time and I, you know, I  
20 don't think that these historical analogies are of  
21 much use at all, of any use.

22 So I am deeply opposed to this.

23 CHAIRPERSON BERRY: Could we have a call  
24 for the question?

25 COMMISSIONER EDLEY: Call the question.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON BERRY: All those in favor of  
2 the proposal indicate by saying I.

3 (Ayes.)

4 Opposed.

5 (No.)

6 COMMISSIONER BRACERAS: And I would like a  
7 roll vote.

8 CHAIRPERSON BERRY: Commissioner Braceras?

9 COMMISSIONER BRACERAS: No.

10 CHAIRPERSON BERRY: Commissioner Edley?

11 COMMISSIONER EDLEY: Yes.

12 CHAIRPERSON BERRY: Commissioner Kirsanow?

13 COMMISSIONER KIRSANOW: No.

14 CHAIRPERSON BERRY: Commissioner Meeks?

15 COMMISSIONER MEEKS: Yes.

16 CHAIRPERSON BERRY: Vice Chair Reynoso?

17 VICE CHAIRPERSON REYNOSO: Yes.

18 CHAIRPERSON BERRY: Commissioner  
19 Thernstrom?

20 COMMISSIONER THERNSTROM: No.

21 CHAIRPERSON BERRY: Berry, yes. Motion  
22 passes, 4 to 3.

23 We will take, without objection, a  
24 10-minute break and then we will start the  
25 presentation.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   COMMISSIONER BRACERAS:    May I make a  
2 motion, please, before that break?

3                   CHAIRPERSON BERRY:    Yes.

4                   COMMISSIONER BRACERAS:    I'd like to make a  
5 motion that dissenting Commissioners on this vote be  
6 able to remove their names from any such proposal and  
7 not have it presented to the public with our names on  
8 it.   I feel too strongly about it to have my name  
9 associated with such a proposal right now.

10                  CHAIRPERSON BERRY:    What would you like  
11 your name removed from?

12                  COMMISSIONER BRACERAS:    If there's no --  
13 maybe it's premature.   I suppose I could make the  
14 motion again when we have a particular document.   Is  
15 that what you're telling me?

16                  CHAIRPERSON BERRY:    I'm just asking you  
17 what do you mean?   Where do you want to your name  
18 removed from?

19                  COMMISSIONER BRACERAS:    My understanding  
20 is that this a proposal that will be sent to Congress  
21 for consideration --

22                  CHAIRPERSON BERRY:    By the Commission.   It  
23 wont say anyone's name.   It will say "for the  
24 Commission", C-O-M-M-I-S-S-I-O-N.

25                  COMMISSIONER BRACERAS:    Right, and I'd

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 like a notation that Commissioners Thernstrom,  
2 Braceras and Kirsanow dissent from the report.

3 CHAIRPERSON BERRY: That's not our policy.  
4 You may send up any letter you wish.

5 COMMISSIONER BRACERAS: I certainly will.

6 CHAIRPERSON BERRY: The other thing is  
7 that we need a deadline before we go on when dissents  
8 will be sent in on the statutory report. If there are  
9 any persons who would like to dissent.

10 Terri, do you know what your time line is  
11 on getting this thing printed? Are you still there?

12 Do you know what the time line is, Staff  
13 Director?

14 Does anybody know?

15 MR. JIN: The time line for hitting the  
16 street, of course, is the end of the fiscal year, but  
17 in terms of the specific dates.

18 Terri, are you still there?

19 MS. DICKERSON: Yes, I'm here.

20 MR. JIN: Terri, did you hear the  
21 question?

22 MS. DICKERSON: I'm sorry, I didn't hear  
23 it.

24 CHAIRPERSON BERRY: For a dissent on the  
25 statutory report, what time line do you need, a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 deadline of which for dissent? Do you care? If  
2 people would like to write a dissent. Can you hear  
3 me?

4 MR. JIN: Terri, Terri? Just tell us  
5 later.

6 CHAIRPERSON BERRY: I'm going to say 30  
7 days. Thirty days from today for anyone who would  
8 like to write a dissenting.

9 COMMISSIONER THERNSTROM: A dissent on  
10 this specific --

11 CHAIRPERSON BERRY: The statutory report,  
12 I'm talking about.

13 COMMISSIONER THERNSTROM: The 10-year  
14 report.

15 CHAIRPERSON BERRY: Okay, to be planted in  
16 the report, if you have a dissent in 30 days.

17 All right, we're going to have a 10-minute  
18 break and then we'll start right back.

19 (Off the record.)

20 CHAIRPERSON BERRY: Let me first say to  
21 the Commissioners, that the Staff tells me that in  
22 order for them to meet the statutory deadline for  
23 their statutory report, you can't have 30 days to do a  
24 dissent. If you have a dissent, you have to turn it  
25 in within 10 days, otherwise, they will be late

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 getting the report up to the Congress, given how long  
2 it takes to get all the work done. So we would  
3 appreciate that.

4 **VIII. Presentations from Midwest Regional**

5 **SAC members**

6 The other thing is now we turn to the  
7 Panel Presentations that we are having today. One of  
8 the reasons why we come here to meet and have been  
9 going around the country is so that we can get  
10 information from and have exchanges with our State  
11 Advisory Committee members and somewhere I have a  
12 piece of paper that gives me the -- oh, here it is.  
13 I've got it. I found it. That has details to show  
14 and we want to say to the SAC members right at the  
15 outset how much we appreciate them and how much we  
16 appreciate the work they do and how we wish we had  
17 more in the way of resources to devote to their work  
18 and also that we hope that they are able to implement  
19 some of the suggestions that have been made, under  
20 FACA, for example, meeting over the phone and other  
21 kinds of things that will make it more possible for  
22 you to stay in touch and to move forward on what you  
23 wish to do.

24 I don't have the piece of paper, so  
25 somebody has to give it to me.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1           The first panel has three members and Ivy  
2           Davis is Director of Regional Programs Coordination  
3           Unit at the Commission and she has worked hard with  
4           the SACs in putting this together. And on the first  
5           Panel we have from Wisconsin, Emraida Kiram. Am I  
6           mispronouncing your name? Help me, please. Emraida  
7           Kiram. And Ms. Kiram is from Milwaukee and she is the  
8           Chairperson of the Wisconsin SAC and is currently an  
9           Educational Administrator at the University of  
10          Wisconsin, Milwaukee, whose campus I have visited on a  
11          number of occasions. She was first appointed to the  
12          State Advisory Committee in 1992 and she has been  
13          active with several organizations, Filipino American  
14          Women's Network; the Wisconsin Minority Women's  
15          Conference, Women of Color; the Wisconsin Women's  
16          Political Caucus; the Archdiocese of Milwaukee and she  
17          is editor of the Filipino American Medical Association  
18          Newsletter; and is very active and a very important  
19          member of our State Advisory Committee contingent and  
20          chairperson of that Committee. And we thank her for  
21          coming.

22                 We also have Lester Collins who is a  
23          member of the Minnesota SAC and I don't have a  
24          description here of all of his -- oh, here it is. Mr.  
25          Collins is from St. Paul. He's Executive Director of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Minnesota State Council on Black Minnesotans and the  
2 Council was created to research a broad spectrum of  
3 issues affecting African Americans in the State and  
4 report to the Governor and Legislature with  
5 recommendations for initiatives. He was first  
6 appointed to the SAC in 1999. He was active in the  
7 NAA, the Urban League, African American Leadership  
8 Committee and the People of Color Health Force.

9 And from Indiana, Mr. Frank Becerra of  
10 Griffith, Indiana. Where is Griffith, Indiana?  
11 Anyway, what's that near?

12 MR. BECERRA: Chicago.

13 CHAIRPERSON BERRY: So he's from Chicago.  
14 No. He is Corporate Officer and Vice President of  
15 Security Federal Bank of Lake County, Indiana. He was  
16 first appointed to the SAC in 1997. He's been active  
17 in a number of civic and community organizations  
18 including the Advisory Committee for the Diocese of  
19 Gary; Catholic Youth Organization; Carna Lake Home for  
20 Girls; Lake County United Way; and Habitat for  
21 Humanity.

22 Ivy, how do you want this to proceed?

23 MS. DAVIS: We can proceed in order with  
24 Mr. Becerra and then Mr. Collins and then Ms. Kiram,  
25 if you like. I'm here to report on the Illinois SAC.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Both the Illinois SAC and the Ohio SAC were unable to  
2 attend because of scheduling problems, but the Ohio's  
3 SAC review of post 9/11 issues is on our website and I  
4 do have a summary that the Regional Office has  
5 provided for me for the Illinois SAC.

6 CHAIRPERSON BERRY: Okay, so we'll go with  
7 Mr. Becerra first. Thank you very much for coming.

8 MR. BECERRA: Thank you. For the sake of  
9 time, I'm going to read my report rather than ad lib.  
10 I tend to rattle on.

11 (Laughter.)

12 Members of this Committee, it is an honor  
13 to have an opportunity to share some information and  
14 some personal thoughts with you this morning. The  
15 Indiana Advisory Committee has recognized the  
16 importance and the urgency in reviewing the post 9/11  
17 syndrome involving Arab Americans and Muslims.

18 On May 30, 2002, our Committee met in  
19 Indianapolis to discuss this issue. In order to  
20 further educate us of the potential explosive  
21 situation we find ourselves in post 9/11, we invited  
22 the following speakers for a fact-finding meeting: R.  
23 Kevin Jock, Professor at Indiana University,  
24 Department of Religious Studies; Judge David Shahid,  
25 Mark Marion County Superior Court; Michael Shihir from

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the Nur-Ala Islam Center; Rafael Sahid, founder of  
2 Bridging the Gap; Sahid Ali, private citizen; and Dr.  
3 Shahid Attar, M.D. and author. Professor Kevin Jock  
4 summarized the history of Islam to our members. He  
5 then went on to talk about Islam in our country. We  
6 learned that there are between 6 to 8 million Muslims  
7 in the U.S., half of whom are African Americans; 20  
8 percent of Arab Americans and 10 percent are South  
9 Asian. Many Muslim immigrants came from societies  
10 where they had limited government freedom, therefore,  
11 they tend not to trust our governments or law  
12 enforcers. Because of this, it is estimated that  
13 there five times more incidents of discrimination  
14 against Arab Americans than are actually reported.  
15 Judge David Shahid shared his great concerns over many  
16 incidents reported in Indiana involving Arab American  
17 and Muslims since September 11th. However, he was  
18 greatly encouraged to see how some of our government  
19 officials reacted after 9/11. Within a few weeks  
20 after the attack on our country, Indiana Senator  
21 Richard Lugar held a press conference in downtown  
22 Indianapolis to urge calm and reason in this time of  
23 crisis. He invited Muslims from central Indiana to  
24 participate in the press conference and stated in his  
25 remarks that the conduct of extremists did not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 represent or reflect true Islam.

2 Mark Peterson, Mayor of Indianapolis in  
3 public remarks urged citizens of Indianapolis to avoid  
4 jumping to conclusions and targeting Muslims and  
5 others merely because of a perceived association based  
6 upon the religion or place of birth.

7 Judge Shahid was also impressed with  
8 President George Bush when he visited the Islam Center  
9 in Washington, D.C. to acknowledge the virtues of the  
10 religion of Islam and support for the Muslims who are  
11 good citizens in America. He noted that they stand  
12 with America against terrorism. President Bush also  
13 condemned the targeting of innocent Muslims and  
14 persons of Middle Eastern ancestry.

15 Judge Shahid ended his presentation with  
16 and I quote, "as a balance to this faceless enemy who  
17 threatens the security of all Americans, the leaders  
18 should continue to educate the public that the vast  
19 majority of Muslims and Arab Americans are your good  
20 neighbors, coworkers and your friends."

21 Michael Shihir from the Nur Ala Islam  
22 Center of Indianapolis voiced his concerns to our  
23 Advisory Committee. He shared reports of job  
24 discrimination which included Arab Americans being  
25 verbally abused at the work place and the cases of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 discriminatory firings of Arab Americans. However, he  
2 also felt an appreciation towards those many non-  
3 Muslim Americans who would quickly approach the Muslim  
4 men and women adorned in their Islamic attire and  
5 warmly greet them with words of love and  
6 encouragement.

7           Raphia Said, the only women speaker that  
8 particular day at our meeting reminded us that a large  
9 portion of the problem regarding the discrimination of  
10 Arab Americans and Muslims is the lack of knowledge  
11 regarding the people and their religion. She went to  
12 explain her movement called Bridging the Gap.  
13 Basically, she holds cultural seminars in various  
14 parts of Indiana inviting Islamic, Jewish and  
15 Christian speakers to summarize the common  
16 backgrounds.

17           Finally, Dr. Saheed Sitar passed out  
18 complimentary booklets which he wrote and published  
19 called "The 25 Most Frequently Asked Questions About  
20 Islam after September 11, 2001." If anyone has not  
21 seen this, they should get their hands on a few  
22 thousand of them.

23           He also supplied us with a copy of  
24 Indianapolis Medical Society Bulletin in which he  
25 wrote the article, "A Muslim's Physician's Jihad

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1       Against Terrorism."

2                     Dr. Saheed has written and spoken against  
3 terrorism for the last 20 years. He considers  
4 terrorism a modern plague that we must fight together,  
5 so that we can live in peace and sleep without fear.

6                     As the President of the Islamic Medical  
7 Association, he immediately issued within a few hours  
8 of receiving the news of 9/11, a statement condemning  
9 terrorist attacks on American soil, on innocent  
10 civilians in the World Trade Center and the military  
11 personnel in the Pentagon. He then immediately urged  
12 some Muslim physicians in New York and Washington,  
13 D.C. to go and provide emergency medical relief for  
14 the injured and psychological support for their  
15 relatives, as well as participate in the blood  
16 donation drives.

17                    At the same time, Dr. Saheed urged  
18 Americans, in general, and the media in particular,  
19 against unnecessary discrimination, stereotyping and  
20 prejudice against Islam and Muslim Arabs and all other  
21 ethnic backgrounds.

22                    Because our meeting in Indianapolis was  
23 held very recently, our Committee has not yet  
24 officially come forward with its unified  
25 recommendation regarding the civil rights needs of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Islamic communities. However, I'm sure it will be  
2 forthcoming very, very soon.

3 Thank you all again for the opportunity of  
4 having the great State of Indiana represented. At  
5 this meeting this morning.

6 CHAIRPERSON BERRY: Okay, we'll have some  
7 exchange in a few minutes. First, let's go to Mr.  
8 Collins, please.

9 MR. COLLINS: Good morning, at this point,  
10 to everyone. Number one, it's a privilege to be here  
11 and the discussion that I have essentially witnessed  
12 thus far has certainly been an interesting and  
13 invigorating in terms of the issues being addressed.  
14 They are issues that are very much common to the  
15 challenges, even in the State of Minnesota.

16 Mainly today, number one, I'm coming in  
17 place of Alan Wineblood, our Chair, and on short  
18 notice, I guess, I feel most comfortable, I think,  
19 speaking to one of the issues is our proposed project  
20 dealing with the media and essentially an update from  
21 the 1993 report that was done on minorities and the  
22 media and I'm going to try to speak to that as best I  
23 can.

24 I actually was looking, and I'm glad, in  
25 some respects, took quite a bit of notes at that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 particular meeting, but the thing I didn't do is write  
2 down, and I have a tendency to rattle on --

3 (Laughter.)

4 But I'm going to try to be as concise as I  
5 possible can and give you a flavor of at least some of  
6 the things that we did talk about.

7 Number one, and very similar to some of  
8 the things that you have heard so far, there was a  
9 1993 Minnesota Advisory Committee Report on Minnesota  
10 media and minority stereotyping. It dealt with  
11 Minnesota newsrooms and kind of spoke to a number of  
12 issues. And despite the trend, and even at that time  
13 of less stereotyping, other trends also appear to  
14 continue in Minnesota media. Number one, very few  
15 people of color are in decision making positions in  
16 any sector of the Minnesota media. And although  
17 progress is being seen in the number of minorities  
18 working in the newsroom, little progress has been seen  
19 in minorities working in management. The lack of  
20 editors is the main reason for the lack of people of  
21 color and people in positions of authority have been  
22 cited by the American Society of Newspaper Editors as  
23 a main reason for the huge number of minorities who  
24 are leaving the journalism field.

25 Another area of concern is coverage of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 minority communities and with the Federal  
2 Communications Commission deregulation of radio and  
3 television stations, most media companies have shifted  
4 their focus from public service to what would appear  
5 to be profit margins. Many media members and critics  
6 argue that this shift has meant the reduction of  
7 resources allocated to reporting the issues that are  
8 important to minority communities.

9 The Minnesota Advisory Committee proposes  
10 to investigate a number of the issues on dealing with  
11 this matter.

12 I should mention to you as I look at the  
13 data, certainly, as related to 1993, and then looked  
14 at essentially the two-day fact-finding hearing that I  
15 took part in, I'm concerned that many of the  
16 recommendations from 1993 while there has been some  
17 progress it almost appears to me and I felt somewhat  
18 uncomfortable about the whole idea of speaking to  
19 essentially those SACs or at least my impression  
20 without essentially, our whole Commission having come  
21 together and at least concluded some things, but you  
22 know, I did volunteer essentially to come and to speak  
23 and I'll do the best that I can in that particular  
24 regard.

25 Number one, the news media has an

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 influence of attitudes of views and readers regarding  
2 race relations in this country. There's a significant  
3 merit in allegations that the media presentation of  
4 news is biased when it comes to reporting people in  
5 communities of color. The unfair portrayal of  
6 minorities in the electronic and print media has  
7 produced negative self images of people of color and  
8 it has destroyed or bestowed upon white people an  
9 undeserved destructive image of superiority.

10 Business interest drives today's news  
11 coverage and reporting and despite some improvement,  
12 minorities are still generally portrayed as a negative  
13 segment of Minnesota society. The print media has  
14 diverse staffs, but little diversity in management  
15 positions and the editors of the three major  
16 newspapers in the state admit that negative  
17 stereotyping of minorities continues, however, the  
18 editors said the papers are responsive to community  
19 concerns.

20 Television news has people of color on  
21 staff, but the minority staffing levels are less than  
22 the minority population of the general population and  
23 negative stereotyping of minorities does occur, but  
24 efforts have been made by several stations to present  
25 positive stories about local minority communities.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Recommendations for action from the 1993  
2 report spoke to (1) that press does not -- does and  
3 should enjoy a high level of unrestricted freedom to  
4 publish and to broadcast. Stereotypes and biases are  
5 the result of ignorance. The Congress and the State  
6 Legislators should ensure the importance of mandatory  
7 curriculum revision in all public elementary and high  
8 schools. It was felt that this would provide a  
9 complete and an accurate account of the historical  
10 developments of America including many contributions  
11 of all races.

12           Another recommendation from that 1993  
13 report was that all Advisory Committees of the United  
14 States Commission on Civil Rights should consider  
15 examining this very issue of media and stereotyping.  
16 The government should encourage the establishment and  
17 strengthening of minority-owned news media outlets and  
18 that all levels of government should be extra vigilant  
19 in enforcing equal employment opportunity laws, that  
20 news organizations and be alert to barriers to  
21 employment. The media affirmed its commitment to  
22 expanding the diversity of their staffs and expanding  
23 channels of communications with minority communities.  
24 Minorities outside the media should be active  
25 participants in news reporting process and majority

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 media should aid the development of minority community  
2 media by working cooperatively.

3 As I looked at number one, those  
4 recommendations and some of those findings, the  
5 conclusion, number one, is that there really has not  
6 been much success given that 1993 report. Major  
7 education reform has not occurred in regard to  
8 including diversity studies in public and elementary  
9 high schools. And for many people interviewed, the  
10 two primary newspapers, the Star Tribune in  
11 Minneapolis and the Pioneer Press, it was felt that  
12 they were doing a better job of hiring people of color  
13 to report the news. Also, and I'm just trying to skip  
14 so I can cover some of the highlights, the rise in  
15 people of color hired by media in Minneapolis and St.  
16 Paul can be partly attributed to the efforts made at  
17 recruiting minorities. The members of the media  
18 industry reported in the 1993 U.S. Commission on Civil  
19 Rights Report that they had difficulty hiring  
20 minorities because most people of color who excelled  
21 in college chose to pursue careers in more lucrative  
22 industries law or medicine.

23 I'm going to essentially move from that  
24 aspect and look at some of the proposed things that  
25 were at least talked about. In fact, I'm going to go

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 for the sake of time -- I think essentially to some of  
2 the recommendations that kind of came out of the  
3 report.

4 Number one, we need to make newsrooms more  
5 reflective of the population. There needs to be  
6 increased diversity among the areas journalists who  
7 would go a long way towards more balanced coverage.

8 There needs to be -- we need to increase  
9 the number of people of color and positions of  
10 authority at media organizations. News organizations  
11 must make a serious effort to avoid stereotyping.

12 There needs to be consideration to  
13 advertising campaigns showing people of color in the  
14 news business.

15 We need to do more homework. Reporters  
16 must get to know communities beyond the surface and  
17 then show up in good times and in bad times to cover  
18 those communities.

19 Reporters should not cover some people as  
20 representatives of the whole culture or the group.  
21 Also, there was a great deal of concern as related to  
22 African American and Native American depictions in  
23 particular in Minnesota news coverage as being  
24 negative.

25 More time needs to be spend in the culture

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 of communities, assigning reporters of color to cover  
2 communities of color. We need to interview some  
3 cultural elders similar to way European American  
4 groups are covered.

5 Journalists need to be dedicated  
6 themselves to making connections in a variety of  
7 communities other than their own. And then there  
8 needs to be mainstream publications that should  
9 consider providing some coverage in native languages.  
10 It is important to take advantage of involving  
11 technology, using resources to televise small groups,  
12 interbase information. And also an electronic listing  
13 of sources shared by all would be helpful. And then  
14 news organizations would do well to cover quality of  
15 life stories in communities of color such as stories  
16 affecting neighborhoods, schools, services, health  
17 care, etcetera and on and on.

18 I'm going to stop on that note and I will  
19 tell you that again, having dealt in the business of  
20 this business for some 20 to 30 years, again, I'm  
21 concerned that the 1993 report and then looking at the  
22 many individuals that were present at the hearing, the  
23 two-day hearing that we had and one of the notes that  
24 I received was to try to make mention of the fact that  
25 there was representation from the city. And by the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 way, we have two new Mayors in both of our cities in  
2 Minneapolis and St. Paul, two major metropolitan  
3 areas. And representatives from both of those offices  
4 were present. Members of the Anti-discrimination  
5 Committee were present. Individuals from the  
6 University of Minnesota, the School of Journalism, our  
7 Human Rights Commissioner, almost all of our so-called  
8 minority media outlets or newspapers were present and  
9 a number of others. Again, I'm concerned because I  
10 happen to be a newspaper clipper, as a matter of  
11 record, and unfortunately, I haven't seen much  
12 improvement in coverage. Now again, we do have a few  
13 more faces, you know, in our news. I will tell you  
14 that most of them and this is not necessarily a  
15 complaint, are individuals of -- they're African  
16 Americans, but they're still very little Latino or  
17 other types of coverage in terms of individuals in the  
18 State. By the way, the State of Minnesota has one of  
19 the larger Asian populations and the Somalian  
20 population in Minnesota alone is about 40,000  
21 individuals. So I think people have a tendency to  
22 kind of think and there are -- well, let me complete  
23 that, that Minnesota is basically a European -- but  
24 there is a sizeable population of Native American  
25 individuals, certainly of the native African

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 population is increasing. The Asian population and  
2 I'm, originally from Philadelphia and I've got to tell  
3 you I came to Minnesota thinking that there weren't or  
4 would not be as many challenges as those, as I  
5 witnessed in Philadelphia, but I can tell you that  
6 they are ever, if not even greater in terms of a  
7 challenge. I'm not really pleased with the findings  
8 that we have concluded or come to since that 1993  
9 report.

10 Thank you, Madam Chair.

11 CHAIRPERSON BERRY: Ms. Kiram, please?

12 MS. KIRAM: It's a privilege to be able to  
13 address the Commission at this time. On a personal  
14 level, my greatest incentive in coming is that I can  
15 put the faces and the names of the people I read about  
16 since I seem to be the oldest member of the  
17 Commission, at least on a state level. But more than  
18 that I am very pleased to share with you some of the  
19 work that we've done in Wisconsin.

20 The Wisconsin Advisory Committee at the  
21 planning meeting on April 11 extended an invitation to  
22 several members of the Muslim Islamic community in  
23 Milwaukee. Speakers included a Muslim student from  
24 India, a female community leader and organizer, a  
25 professional couple and a lawyer. In summary, the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 concerns expressed mirror many of those coming from  
2 other Muslim communities in the United States. The  
3 local Muslim community has been aware and have  
4 experienced several forms of discrimination and racism  
5 in the city and in the state and have been trying to  
6 cope in small measure to get these issues resolved.  
7 Most have been advocating changes in state statutes  
8 involving ID cards, driver's licenses and passport  
9 photos. These areas mandate uncovered heads and  
10 visibility of at least one ear which Islamic law  
11 requires covered. Up to the time of the hearings, no  
12 religious accommodations have been made, although a  
13 lot of promises like we'll get back to you has been  
14 said.

15 The head covers worn with pride by Islamic  
16 women and by Indian sheiks became identifying symbols  
17 of hate and derision. Some received threats of  
18 physical and bodily harm, while some became victims.  
19 Housing discrimination has also been blatant but  
20 nothing like the events of September 11 divided the  
21 community among racial and ethnic lines.

22 Phone calls to Islamic centers were  
23 hate-filled. Islamic businesses opted to close. The  
24 Arab Fest and Annual Festival in late September chose  
25 to cancel. Arab, Middle Eastern, Asian and African

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 individuals, families and students were abused  
2 verbally and otherwise.

3 People bearing Islamic names or surnames  
4 were targeted with venomous calls. In the confusion  
5 of September 11, name calling arising from fear,  
6 misunderstanding or lack of it, became common.

7 Milwaukee is not a very large city, but it  
8 is considered among the five top segregated cities in  
9 the country and in this cauldron blame can easily  
10 escalate to violence.

11 This is a city proud of its ethnic  
12 heritage, of its ethnic festival of its ethnicity and  
13 diversity, yet, failing miserably when put to the test  
14 of September 11th.

15 Out of these are silver linings. The  
16 religious communities rallied in defense of the local  
17 Muslims. Invitations to speak and elaborate on Muslim  
18 beliefs and practices expanded in schools, community  
19 and civic associations. Forums with government  
20 agencies were organized, lines of direct communication  
21 were established. What was most shocking to the local  
22 Muslim community was not the knocking of the doors by  
23 federal agents, the very people they felt were  
24 guardians of their rights and privileges as American  
25 citizens. One woman testified that in 21 years, she

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 did not even receive a speeding ticket, yet she was  
2 made to feel that her race was a disgrace.

3 They felt that this was not only  
4 harassment, but it was a witch hunt, bringing back  
5 anecdotes of the way the African Americans have been  
6 treated in the past. Now it is their turn.

7 Appearances at the residences without  
8 prior appointments made them feel like common  
9 criminals. While the Muslim community is rather young  
10 and not very large, they are proud to be citizens and  
11 felt that they have achieved integration until events  
12 proved otherwise.

13 Despite all this, the Muslim community was  
14 afraid to speak up because they worried that to do so  
15 would strip them of their citizenship. Students were  
16 in fear of deportation in the midst of a school term.  
17 Individuals were asked to say something against other  
18 individuals. Even trips to the store, to schools or  
19 one's presence in the streets were carefully planned  
20 so as not to insight or attract attention. The  
21 insecurity that September 11 created among the Muslim  
22 population was traumatic.

23 In times of national crisis like this, it  
24 becomes incumbent upon those who are leaders to come  
25 before the public and restore calm. Assurances that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 people of color are not representative of the groups  
2 that made up September 11 in the shock and confusion  
3 would have helped. A lot of blame was being passed  
4 around. It was felt that the media also failed them.  
5 And in fact, added to the incendiary feelings that  
6 were already coming to the surface. The stories that  
7 the panel shared were personal and will add to the  
8 oral histories of a community that was trying to be  
9 understood. They are collectively. And that the  
10 people that came before us feel that there are people  
11 in this country that do care and that their feelings  
12 are being recognized.

13 All in all, the collective feeling of the  
14 people that came before our Commission was to say that  
15 they were grateful that there were people willing to  
16 listen.

17 Thank you.

18 CHAIRPERSON BERRY: Ivy, you want to tell  
19 us about the two --

20 MS. DAVIS: Mine is going to be real brief  
21 because I wasn't there. But I would like to emphasize  
22 that some of the same common themes were highlighted  
23 in the two-day forum that was conducted by the  
24 Illinois SAC and it focused on the Arab and Muslim  
25 communities in the Chicago metropolitan area. There

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 are approximately 400,000 Arabs that live in that  
2 area. They heard from witnesses in terms of the  
3 affected communities as well as professional  
4 associations, government agencies, including the U.S.  
5 Attorney and the Special Agent in Charge of the FBI  
6 from the Northern District of Illinois and of course,  
7 from individuals who had stories to tell.

8 One of the things that I'd like to stress  
9 is that they pointed out the problems predated post-  
10 September 11, that, in fact, there are some problems  
11 with respect to discrimination against those  
12 communities and highlighted a couple of examples of  
13 that. But I think probably the most distressing issue  
14 that was of concern to them was the freezing of assets  
15 of charitable organizations in the area. And three  
16 examples were cited, two by a gentleman, Mr. Simkins,  
17 who is the President of the Muslim Bar Association,  
18 cited two examples, one organization called the  
19 Benevolence International and the point that he wanted  
20 to emphasis here is that the Director of that  
21 organization, Mr. Enam Arnoudt was charged with  
22 perjury and was and is being held in solitary  
23 confinement without bail and he thought that this was  
24 an extreme and unprecedented treatment of a person  
25 charged with perjury. The second example he gave was

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealgross.com](http://www.nealgross.com)

1 of the organization called Global Relief Foundation  
2 and he indicated here that he thought the federal  
3 actions were particularly racist. According to Mr.  
4 Simkins, the government, as indication or proof of the  
5 action that was taken cited newspaper articles written  
6 by journalists who claimed that the foundation was  
7 connected with terrorist organizations and Mr. Simkins  
8 pointed out that even members who had been indicted of  
9 terrorist plots such as a gentleman by the name of  
10 Matt Hail with the Jewish Defense League, have not  
11 failed such measures.

12 And then the third example that was cited  
13 was by an attorney who was representing employees of  
14 the Holy Land Foundation. Their assets have been  
15 frozen and he was talking about the impact that this  
16 has had on those employees. They've lost their jobs,  
17 true. But in addition, their last pay checks and year  
18 end bonuses were removed from their accounts after the  
19 charity's assets were frozen. In addition, they've  
20 lost their health insurance and the opportunity to  
21 apply for COBRA benefits, so that in summary, I think,  
22 the main highlights from that particular review.

23 CHAIRPERSON BERRY: Thank you. I had just  
24 one question and I couldn't understand Ms. Kiram, do  
25 you think that the situation in Milwaukee, at least,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 now these incidents have receded, and are no longer  
2 occurring and that's one question? And the other part  
3 of that is whether Milwaukee has been a place where  
4 Arab or Muslims have been accused of terrorism or are  
5 there any examples of people who actually were  
6 detained, arrested or found to be terrorists in that  
7 community in Milwaukee? I just wonder what the  
8 situation is and how were you impacted by the issue of  
9 whether people were terrorists or not?

10 MS. KIRAM: They haven't found in  
11 Milwaukee. It's not a very large community and most  
12 of the Muslim residents there are professionals. I  
13 think that the shock was more because they felt that  
14 they have arrived in this country as professionals,  
15 that they should be subjected to the kind of treatment  
16 that others of less education or bearing in the  
17 community would have. In fact, I'm Filipino and my  
18 country is listed as one of the terrorist cells, so  
19 more than I think the general Arab Muslim community, I  
20 have felt personally that I have been a lot more  
21 attacked because of my country of origin than most of  
22 the members of the Arab Muslim communities in  
23 Milwaukee. The September 11 effects are less now and  
24 I think the fear that, in general, everybody felt at  
25 the time is lessened and there's a little bit more

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 understanding, a lot of invitations have been extended  
2 to them. Most of the people in the Muslim community  
3 feel that it's just that it's more difficult for them  
4 to integrate into the community because of their  
5 religion. Many immigrants to this country usually  
6 join a church and even if they are from another  
7 country, the fact that they are a member of a specific  
8 congregation helps them to integrate with the larger  
9 community. In the case of the Arabs or the Muslims,  
10 they have to form their own churches and they're only  
11 together with themselves. They are normally not mixed  
12 in with the larger Christian community, therefore it  
13 is a lot more difficult for them to be understood and  
14 accepted. And it does make sense when you think of it  
15 in a religious standpoint although nobody wants to  
16 make that as an emphasis for what happened on  
17 September 11.

18 I think that the atmosphere has improved a  
19 lot and there were other hearings that I attended, not  
20 necessarily something that we initiated, but there  
21 were meetings with the Arab leaders that eventually  
22 also appeared before our group that was initiated by  
23 the immigration, by the INS, the Department of Justice  
24 and other federal agencies within Milwaukee to calm  
25 the fears of the leaders of the groups and one was

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 held at our campus and I felt that it was a great  
2 contribution because the federal agencies were the  
3 ones that reached out to the community instead of  
4 waiting for the community to demand that their  
5 feelings be heard.

6 MS. DAVIS: That was clearly one of the  
7 points that came out of the Illinois meeting that  
8 folks were appreciative of the fact that the federal  
9 agencies did have representatives that were meeting  
10 with them and engaging with them and being responsive.  
11 Their concern, however, was that there were policies  
12 that they were required to carry out and it's the  
13 policies that they take issue with and gave as  
14 examples these charitable organizations assets that  
15 were frozen.

16 CHAIRPERSON BERRY: At this meeting, did  
17 you talk about any of the policies?

18 MS. KIRAM: Very briefly.

19 CHAIRPERSON BERRY: Okay. Mr. Becerra,  
20 the same question that I asked Ms. Kiram. How is the  
21 situation in Indiana now compared to immediately  
22 post-September 11?

23 MR. BECERRA: I would agree with her also.  
24 In the State of Indiana there has been a feeling of  
25 calm, more so now than, of course, a few months ago.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Perception, I think, is very important. There's been  
2 quite a few articles in the newspapers. The media has  
3 been very cooperative in defining what is Islam all  
4 about and I'll be honest with you. I was in the  
5 Catholic seminary for six years studying to be a  
6 Catholic priest and I knew very little of the Nation  
7 of Islam, the religion. That's why I recommended that  
8 book, "The 25 Most Often Asked Questions About the  
9 National of Islam."

10 But I think the perception is very -- I'm  
11 looking at you people sitting in front of me and if  
12 somebody were to say to me there's one Muslim sitting  
13 behind that table, I have no clue who it would be. We  
14 have a gentleman, I can't remember his name, that was  
15 found in Afghanistan who was lily white. We have a  
16 gentleman that's jailed right now as we speak, the  
17 only person jailed related to the 9/11 incident who  
18 looks like white to me. I don't know about you  
19 people, but he looks white to me. So there is no such  
20 thing as a Mohammed, meaning an Indian or Arabic or  
21 whatever, Jordanian, it could be any one of us. And I  
22 think the State of Indiana has been very good about  
23 defining and explaining and educating the people as to  
24 who and what this religion and people are all about.

25 CHAIRPERSON BERRY: And then I'll just say

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 to you, Mr. Collins. I too, found it distressing, as  
2 you did, to see what you described as so little  
3 progress. I did have one question for you. In your  
4 presentation, you said that reporters shouldn't take  
5 people who they interview as being representative of a  
6 particular group just because they're from that group.

7 Do you remember that?

8 And I was just wondering how reporters are  
9 supposed to go about deciding whose views are  
10 represented. I often watch TV and I see people  
11 debating say issues having to do with women, what are  
12 called women's issues. And there will be somebody who  
13 is from some national organization that has thousands  
14 of members who is speaking and on the other hand  
15 somebody from some organization that has five members  
16 including their husband, children and their  
17 grandmother and they're equally debating these issues,  
18 positions. And I often think that in the media, the  
19 point is to juxtapose people who will be in conflict  
20 for controversy, not to worry about whether anybody is  
21 representing anything.

22 So I just wondered what you mean by that.  
23 How is the media supposed to figure out who is  
24 representing what?

25 MR. COLLINS: Yes, and I should say not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 necessarily was that really my personal view. That  
2 happened -- I was reading straight from a particular  
3 observation that had been made. I think one of the  
4 major concerns, at least in that particular regard is  
5 that there needed to be greater effort and it really  
6 had to kind of do with what was called the Rolodex  
7 syndrome. In other words, the media in any town has a  
8 tendency and I happen to be one of those individuals  
9 that they call or talk to fairly often and it's almost  
10 as though there's no one else essentially in the  
11 community or that can speak and I think it's more --  
12 do a little bit more homework. There are many more  
13 black Baptist ministers than Reverend Johnson and it  
14 just wouldn't hurt to talk to the younger Reverend  
15 Johnson. So it takes a little bit more effort and I  
16 think more along those lines.

17 CHAIRPERSON BERRY: Could we -- are there  
18 really urgent questions or can we in the interest of  
19 time go to the next panel? If you do have an urgent  
20 question, you can ask it.

21 VICE CHAIRPERSON REYNOSO: I have a very  
22 important question for Mr. Becerra. What does the X  
23 stand for?

24 MR. BECERRA: Xavier.

25 VICE CHAIRPERSON REYNOSO: Very close to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Javier. Javier Becerra?

2 MR. BECERRA: I have a brother named  
3 Javier Becerra.

4 VICE CHAIRPERSON REYNOSO: Oh, you're  
5 related to Javier Becerra, but not the Congressman.

6 MR. BECERRA: Not him. No, not him.

7 CHAIRPERSON BERRY: Okay, we will see you  
8 later on lunch. Thank you very much.

9 MS. DAVIS: We will reverse the order of  
10 the presentations. The third panel will appear now  
11 because Mr. Amad may have to leave. He's got a big  
12 event going on next week.

13 CHAIRPERSON BERRY: We would be happy to.

14 MS. DAVIS: Great.

15 CHAIRPERSON BERRY: We have before us now  
16 and we want to thank you for coming, Mr. Haaris Amad,  
17 who is Executive Director of the Council on  
18 American-Islamic Relations, the primary civil rights  
19 organization that is devoted to civil rights advocacy.  
20 He is University of Michigan graduate, hail to the  
21 victors, and is at the University of Illinois Law  
22 School. And we have Mr. Ismael Ahmed who is Executive  
23 Director of the Arab Community Center for Economic and  
24 Social Services, called ACCESS. He was one of the co-  
25 founders of the organization which began as a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 storefront operation for newly arriving immigrants.

2 We have Ms. Kary Moss, who is Executive  
3 Director of the ACLU of Michigan.

4 And we have Mr. Imad Hammad who has been  
5 the Midwest Regional Director of the American-Arab  
6 Antidiscrimination Committee in Dearborn since 1997.

7 Welcome to all of you and we will -- who  
8 is the first, who has to leave or can he stay for the  
9 whole thing?

10 Mr. Ismael Ahmad, please.

11 MR. AHMED: Good afternoon. It's strange  
12 that the reason I have to leave is because today  
13 Detroit is celebrating its largest diversity event and  
14 ACCESS is a part of that, along with New Detroit, and  
15 so we have to go over to the site.

16 I knew Sue Hamilton-Smith behind me is  
17 chomping at the bit to get to work as well. It's also  
18 strange that at this same time that we're having this  
19 kind of a hearing which on the one hand we have the  
20 goal on one side where people come together from all  
21 countries, all nations and all communities to work  
22 together and celebrate each other's cultures and here  
23 today we look at some of the reality as well.

24 I represent the Arab Community Center for  
25 Economic and Social Services which is the oldest and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 largest human service agency serving Arab Americans in  
2 the country. We have about 160,000 contacts a year  
3 and hover between 3,000 and 5,000 members. Let me  
4 also say that recently have begun a project to, along  
5 with the Department of National Service, to place  
6 Arab-Americans in 14 cities. And so I've been doing a  
7 great deal of traveling in the last several months  
8 talking to Arab-American organizations who do similar  
9 work. And the story really given one incident or  
10 another is pretty much the same.

11 So I think what we'll have to say to you  
12 today will be reflective, not only of the region, but  
13 of the country.

14 Let me begin by saying that to start at  
15 September 11th would be a mistake. Arab Americans  
16 from the very early days have had their difficulties  
17 here, including history beginning with their arrival  
18 in which many of the Asian exclusion laws were in  
19 force.

20 Initially, Arabs arriving in the United  
21 States were listed either as Turkish or Asian and were  
22 often excluded from both citizenship and the right to  
23 own property, depending on how the state applied it.  
24 My own great grandmother arrived at a point at the  
25 turn of the century in which her husband had arrived

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 here listed as Turkish and had worked his way as a  
2 peddler to South Dakota from New York. She came to  
3 join him and was excluded. She was listed as Asian  
4 and spent five years in Mexico awaiting the ability to  
5 come here, changes in the law then made that possible.

6 So there has been a history of both  
7 misnumbering and stereotyping and Orientalism that has  
8 dogged the Arab American community since it arrived  
9 here, often, having to do with visibility, skin color,  
10 and religious belief.

11 I want to concentrate on the period now  
12 prior to September 11th, beginning in the 1970s. There  
13 has been several efforts to paint the Arab community  
14 as un-American, going back that far, including a  
15 project called Project Bolder, under the Nixon  
16 Administration in which every Arab American of note in  
17 the Michigan area, certainly, and in other parts of  
18 the country found themselves either wiretapped or  
19 visited. This lasted a period of several years until  
20 it was publicly exposed. There have been other  
21 efforts at surveilling Arab Americans going back since  
22 1967.

23 So again, the efforts of the government to  
24 surveil Arab Americans has a history prior to  
25 September 11th. There also have been plans by the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 U.S. government that were also publicly exposed that  
2 were shelved, at least the government says that, of  
3 holding places in Jacksonville, Florida and funny  
4 enough, they had an Arab American mayor there that as  
5 a holding place much like the holding places of the  
6 Japanese. That took place in the 1980s.

7 After the bombing, the first bombing of  
8 the World Trade Center or the attempt to do that,  
9 prior to September 11th, and also what happened at  
10 Oklahoma which had nothing to do with Arab Americans,  
11 there was an effect on laws which affected new  
12 immigrants generally, having to do with due process  
13 and other related rights including human service  
14 rights.

15 By the time September 11th rolled around,  
16 new immigrants were no longer eligible for Medicaid,  
17 general assistance. There was secret evidence was  
18 coming into force which meant that people could now,  
19 the term secret evidence is not a new term, but at  
20 that time it was one pretty much only known by our  
21 community and civil libertarians and what that meant  
22 was that people could be held without evidence and  
23 deported or held indefinitely without evidence.

24 We were just about the time of September  
25 11th in a position to basically beat back the secret

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 evidence laws and their implementation. We had had  
2 several discussions with Janet Reno and the Clinton  
3 Administration on this question and promises that they  
4 would be repealed or at least that every single case  
5 would be reviewed with a panel of reviewers.

6 On September 11th, I believe the Arab  
7 American community generally was shocked, hoping that  
8 there were no linkages to Arabs, Muslims or the Middle  
9 East and following September 11 as evidence came of Al  
10 Qaeda's relationship to this, Arab Americans became  
11 very worried. In my own agency, a percentage of the  
12 people left their jobs, took their kids home for fear  
13 of retaliation. And retaliation there was in Detroit  
14 as there was across the country. There was -- and  
15 others will talk to this, so I won't spend much time  
16 on it. A Yemeni man was shot dead here in the city.  
17 There were dozens of physical incidents and hundreds  
18 of minor incidents. Hundreds or thousands of e-mails,  
19 phone calls and threats to Arab institutions. The  
20 mosques and several other Arab institutions literally  
21 had to shut down regularly in that early period  
22 because of bomb threats. At this same time to be  
23 balanced about what was going on, several  
24 organizations in this city and individuals and  
25 corporations came forward to say what needed to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealgross.com](http://www.nealgross.com)

1 said in the city.

2 I especially would like to thank the ACLU  
3 for their role and New Detroit for their role. Also,  
4 the Michigan Department of Civil Rights who were all  
5 active, as well as many of the Arab American  
6 organizations, the Arab Antidiscrimination Committee  
7 and the Arab Chamber of Commerce, in particular, who  
8 became active in defense of civil rights, exposing  
9 attacks on Arab Americans and doing what they could to  
10 help that.

11 That period was an awful period for Arab  
12 Americans. My view is that while there has been some  
13 remittance and I use the term "some" on the street  
14 level that's been replaced by something much more  
15 scary and that is the role of government around its  
16 relationship with the Arab Americans and Southeast  
17 Asian community. We've seen the closing charities  
18 here and the arrests of leaders of charities,  
19 including the United Holy Land Fund which is  
20 considered the premiere Arab charity to give outside  
21 of the country. This has had a chilling effect, both  
22 on international Arab charities and national Arab  
23 charities. People are fearful, even giving to  
24 domestic groups. We get asked all the time about  
25 where our dollars go and not the normal questions, but

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 are they going to the Middle East, etcetera. Now  
2 ACCESS is a domestic organization and we've seen a  
3 fall off of the kind of dollars that we receive and  
4 many questions that are raised about this.

5 So while there's been some remittance on  
6 the street, we've seen a great deal about change in  
7 terms of government. We've seen two sets of visits of  
8 Arab students. And while the approach may have been a  
9 bit less direct than in some cities where they show up  
10 and knock on your door, we resent frankly, that people  
11 who are not charged with a crime and not suspected of  
12 a crime are visited because of their nationality,  
13 their religion or their background. This has happened  
14 now twice in groups of about 3,000.

15 In addition to that, and the charitable  
16 organization activity, we also frankly wish to condemn  
17 in the strongest terms the use of secret evidence. We  
18 have people disappearing. We don't even know who  
19 disappears any more. We still do not have the names  
20 and addresses and the charges against these people. We  
21 were told in a meeting with the Secretary of the  
22 Treasury and the Secretary of Homeland Security that  
23 they didn't know what we were talking about when we  
24 asked for the names and the charges. And when we said  
25 then why are 20 civil rights organizations suing the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 government to know those names and the charges, they  
2 said they'll look into it. I have not heard a thing  
3 back since that meeting which was several months ago.

4 Basically speaking, we believe that the  
5 relationship between our government and our community  
6 is not a good one. We believe we are surveilled. We  
7 believe that the basic rights of most Americans are  
8 not afforded to us any longer. And while things could  
9 be worse, we think they're bad and need to be  
10 adjusted.

11 Thank you.

12 CHAIRPERSON BERRY: Thank you very much.

13 Mr. Amad, could you focus primarily on  
14 what has happened around 9/11 and now and whether  
15 things are better, worse, what's going on.

16 MR. AMAD: Sure. I'll keep it short. I  
17 think 10 minutes was allocated. I'll try to do it  
18 within that or even less.

19 Really since 9/11, as Ismael had  
20 mentioned, there have been cases before this, but  
21 since 9/11 they were highlighted and a lot more came  
22 to the fore.

23 I have many representative cases from here  
24 in Michigan, particularly, and one being from Chicago  
25 since this is the Midwest Report. But one of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 cases that was extremely disturbing that we dealt with  
2 was that of Anan Bhutta who was a Pakistani American  
3 Muslim doctor who was pulled in by the Flint Police  
4 and basically he was beaten and he was interrogated.  
5 He was verbally abused, mentally abused. He had no  
6 connection to terrorism whatsoever. None was ever  
7 found, but basically for two weeks he was not given  
8 any contact with attorneys. Finally, he was able to  
9 make a call, not to attorneys, but to friends in New  
10 York which is where he was from. Finally, allowed out  
11 on bond and put back in jail during his sentencing  
12 because he didn't apologize. He was forced to  
13 basically -- he was coerced into making a guilty plea  
14 to a bogus charge of sexual harassment and no real  
15 evidence was shown, but he was coerced into doing  
16 that, so once he did that. He was put back into jail  
17 because he had not apologized. He was fed pork  
18 continuously despite his protests over that. Of  
19 course, for a Muslim that is we are not allowed to eat  
20 pork and it's extremely offensive. It was to the  
21 point where he was forced to basically eat it because  
22 he had to eat it. He had a minor heart attack while  
23 in detention. He is a doctor, so he can attest to  
24 that. He had a minor heart attack while in detention.  
25 They took him up to the infirmary. He asked to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 taken to a hospital. They told him he was a threat to  
2 society, with no basis. Remember, there's no  
3 terrorism. There's no basis for association with  
4 terrorist organizations or any such thing. But he was  
5 given an aspirin, basically and thank God he survived,  
6 but anyways, we were able to intervene with the court  
7 once we found out. We were able to intervene and get  
8 him out of the state, back in New York right now. And  
9 extremely shaken. He is an American citizen and so  
10 that's why this is extremely scary that this could  
11 happen.

12 The second case that we are currently  
13 dealing with is representative of what has been going  
14 on across the nation, unfortunately, is that of Nicole  
15 El-Gammal who is married to a Muslim and she's from  
16 Michigan. She converted to Islam. Four days later, a  
17 false report that she was abusing her children. These  
18 children are from a previous marriage. One of them is  
19 from a previous marriage and one of them is from this  
20 marriage. The Family Services came in without  
21 actually investigating, took away the children, which  
22 in and of itself is a trauma. You investigate first  
23 and then take away the children. You look to the  
24 safety of the children, of course, but there was  
25 nothing to indicate that anything had occurred. The

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 children were taken away. She was placed on the  
2 registry of child abusers. She had not been  
3 adjudicated as such. That jeopardized her teaching  
4 license which was the source of income. She was the  
5 bread winner of the family, the primary bread winner  
6 of the family and so her income was jeopardized by  
7 that. Her teaching license was essentially going to  
8 be revoked now, she's on that registry. We were able,  
9 the Family Services representative, this is really  
10 where civil rights abuse has come in, was really  
11 working with her mother who is the one who made the  
12 false report, to say well, you know what, if your  
13 daughter says that her husband abused the children,  
14 everything will be dropped, there will be no problems.  
15 Basically, trying to force her to separate her from  
16 her husband that effectively has happened right now.  
17 The husband has been charged with assault and battery  
18 right now and he has no contact with the children for  
19 three months until the actual trial. Again, they have  
20 a Family Services representative there observing  
21 what's going on in the family, but normally, under  
22 normal circumstances, they would come in and observe  
23 the family together to see what was happening, if  
24 there was anything remiss and they have not found  
25 anything at this point.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Anyway, these cases have occurred in other  
2 places and I think it's a general misunderstanding of  
3 Muslims and I think there's a bias there. Oftentimes  
4 there's a predilection for finding that a Muslim will  
5 be abusing their children. Of course, abuse occurs in  
6 Muslim families and it occurs in all families and we  
7 have to protect children, but I think there's a  
8 predilection to removing the children right away if  
9 it's a Muslim family. I mean that's already  
10 considered abuse. And that's a problem.

11           The case of Ahmed Esa. He's Yemeni  
12 American. He has six children. Been working at his  
13 job for 17 years, never been late, never missed a day  
14 at work, essentially model employee. After 9/11, his  
15 boss came in, started to use intimidating language,  
16 racial and religious slurs, basically targeted him  
17 because he was Muslim and he was Arab and effectively  
18 fired him. They told him to go home and pray to his  
19 leader. Told him to go home and pray to his God, pray  
20 to his leader, implicating or suggesting that Osama  
21 bin-Laden was somehow his leader and some ridiculous  
22 notion. We have filed a suit in this case and it's  
23 continuing even though the boss is on tape for 30  
24 minutes going off on Muslims and Arabs. So he just  
25 wants to continue with this. I don't know why.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Farouk Ali-Haimood. This is a serious  
2 involving the government. I don't know if the  
3 Commission is aware of -- there were three -- well,  
4 actually five in total, but three men picked up in  
5 southwest Detroit after 9/11 at an apartment in  
6 southwest Detroit and one of the men's name was Nabil  
7 al-Murabh and it's just interesting that Mr. al-Murabh  
8 was recently deported, I think a few days ago, without  
9 any terrorist charges. This case really involves  
10 Farouk Ali-Haimood who is a 21-year-old who happened  
11 to be in an apartment. This was his first night  
12 staying there. He had come to this country to stay  
13 with his mother, his parents are divorced and he had  
14 been in Algeria. He grew up in Algeria. His mother  
15 who is an American citizen is a Ph.D. and a professor,  
16 was a professor at a local college. Fired also  
17 because of this situation. In any case, he had come  
18 to stay with her. He wanted to be a little bit more  
19 independent and so therefore he wanted to move out. It  
20 was his first night in this apartment, never been  
21 there before. Basically, he was a successor to Mr.  
22 al-Murabh. Mr. al-Murabh never even knew him. In any  
23 case, the FBI came and picked them up, the three  
24 gentlemen that they found. These were not any list or  
25 anything. They just happened to find them in that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 apartment and just picked them up and took them.  
2 Charges were made. Various charges were made.

3 What's clear to me is that there were some  
4 charges related to terrorist affiliations and then  
5 also some visa fraud. The charges were dismissed  
6 against Mr. Haimood and then he was released. Now  
7 what happened after though is he finally found a job.  
8 As you can imagine, when your face is flashed all over  
9 the news and the media made it their mission that  
10 anybody even on a minor traffic violation is now Osama  
11 bin-Laden's right hand man, you can imagine it's very  
12 difficult to get employment. He finally got  
13 employment at the airport at an ice cream shop. The  
14 attorney had told them, look, if there's anything  
15 further, please discuss it with me first and we'll be  
16 more than happy to come in. On purpose, it took 23  
17 FBI Agents to go and arrest him publicly and humiliate  
18 him at his place of work at the airport, to make a  
19 show of it and they accused him of economic jihad.  
20 I've never heard of that term and I'd be interested to  
21 see what the explanation behind that is. This is a  
22 21-year-old working in an ice cream shop, really  
23 trying to make ends meet.

24 In any case, he is still in detention, no  
25 charges have really been brought against him. There's

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 no evidence against him. And you should really see  
2 his mother. If you hear the effect that it's had on  
3 her mother. She still has nightmares about actually  
4 bringing him to this country now and she's an American  
5 citizen. It's quite sad.

6 There's a case of Samer Kaukab. This is  
7 out of Chicago and actually the ACLU is the one who  
8 has filed the lawsuit in this case. This has to do  
9 with airport profiling. I know there's many cases  
10 with airport profiling, but this one, I think, is one  
11 of the more compelling ones that illustrate the extent  
12 of the treatment that is going on with Muslims and  
13 Arabs. Ms. Kaukab does wear the head scarf, for  
14 religious reasons and she was returning from Chicago  
15 to Cincinnati for -- she was returning from a social  
16 service conference and she was the Muslim in her  
17 group. She was the only Muslim in her group. She was  
18 the only one stopped out of her group. They were  
19 going through the security checkpoint together and she  
20 was pulled aside and she was checked with the wand and  
21 everything. There was a full search. Nothing ever  
22 came up. This happens a lot. They went around head  
23 scarf and they didn't find anything. The wand did not  
24 go off. So the male security asked her to remove her  
25 scarf. Now a Muslim female who would be using the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 head scarf would not find that appropriate. It is not  
2 appropriate for her to remove it in front of a  
3 nonrelative male. And she explained that in a very  
4 nice and calm manner. The security guard insisted and  
5 was very intimidating. They brought more people. They  
6 continued to intimidate her. She stuck to her guns.  
7 She was very calm and very nice about it. She said  
8 I'd be more than happy to remove it, but if we go to  
9 the side, I'll do it front of a female security  
10 officer which were available. They were available.  
11 Finally, they allowed, but the male officer came along  
12 into the room and insisted upon being there. I don't  
13 know exactly why. But insisted upon being there.  
14 Finally, he left after much discussion. Then they  
15 subjected her to a full body search, full body strip  
16 search where they touched her genitalia and they --  
17 unnecessary. There was no indication that this was  
18 necessary. They could have done a pat down on the  
19 outside which they did initially and there was nothing  
20 that showed up. This was really to humiliate her and  
21 this case is actually pending, but it just  
22 demonstrates what's going on.

23 I'll just rap it up. I just wanted to  
24 point out some of most common things that we're  
25 dealing with and maybe some practical suggestions for

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the Commission.

2 We're dealing with a lot of employment  
3 denials. Based on the traditional head scarf, of  
4 course, people will be denied employment right off the  
5 bat or if they're actually working they will be  
6 somehow fired in a creative way. People have become  
7 more creative. Based on the Muslim names, résumés,  
8 say Muhanne, Ahmed, anything like that. No way. We  
9 have temp agencies telling us this, that they're not  
10 getting sourced.

11 Accommodation denials. Not allowing time  
12 off for the Eid Holiday or Friday Prayer when other  
13 faiths are allowed by the company.

14 Due process denial. Secret hearings. I'm  
15 not even talking about secret evidence. We're talking  
16 about secret hearings. I don't know if you saw, but  
17 Senator Carl Levin had submitted an inquiry and  
18 they're saying 600 people, 600 people were in secret  
19 hearings. That's amazing. How can that happen?

20 Indefinite detentions. People have been  
21 in detention since 9/11. Again, major violation.

22 Secret evidence. Takings without fair  
23 hearings. Again, the freezing of assets all over the  
24 place.

25 Denial of bail for minor immigration

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 violations and perjury charges for filing suit on the  
2 central issue in the case. We're talking about the  
3 Arnaudt case. The perjury charge is actually from a  
4 civil suit that was actually against the government  
5 for freezing the assets and the central issue was  
6 whether the relief organization was -- had terrorist  
7 connections or not and he alleged that they did not.  
8 That needs to be proven. If you filed perjury charges  
9 against him, then there is nobody in their right mind  
10 who is going to file a lawsuit to vindicate their  
11 rights.

12 Okay, and the practical suggestions, I  
13 think the Commission should issue guidelines to  
14 employers, for example, just stating clearly some of  
15 the things that are considered discriminatory  
16 practices, in particular with Muslims because for some  
17 reason after 9/11, there is this assumption that  
18 because it's Muslims, they're our enemy or something  
19 like that and we can discriminate against them,  
20 there's no problem and the government will support us.  
21 We need to make it clear that no, they will not.  
22 Hopefully. And just to make it clear on that.

23 I have it written on the papers that you  
24 have, so thank you very much and I hope I didn't go  
25 too much over my time. I think I did.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON BERRY: Ms. Moss?

2 MS. MOSS: Thank you very much. I'm Kary  
3 Moss. Executive Director of the ACLU of Michigan. I  
4 submitted written testimony to you and I'm not going  
5 to read that, nor am I going to repeat it.

6 There were just several points I wanted to  
7 make, emphasize and expand a little bit. But first of  
8 all, let me thank you all for coming to Michigan. I  
9 think it's tremendous that the U.S. Commission on  
10 Human Rights took the time to come to Michigan and  
11 particularly to give my colleagues and friends in the  
12 Arabic community an opportunity to talk to you. We  
13 have the largest Arabic population in the country here  
14 and I think it's very much to your credit that you  
15 made this time.

16 You've heard from both Ish and from Haaris  
17 about some of the things that have been happening  
18 here. I wanted to talk for a minute about what I  
19 think one of the consequences is. We have seen  
20 tremendous movement or culture of fear develop since  
21 September 11th that I think is very important for  
22 civil rights.

23 First of all, this culture of fear that we  
24 see ultimately is going to undermine trust and law  
25 enforcement and therefore ultimately underline the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 capacity of law enforcement to effectively deal with  
2 terrorism.

3 There is a tremendous human cost when  
4 there's a culture of fear that is created. We know  
5 from the days of segregation what happens when you  
6 target people because of their race or their ethnicity  
7 or because of their religion. We know it leads to  
8 social turmoil and we know that it feeds and generates  
9 racism.

10 It is also inconsistent with who we are.  
11 We are not a country of fearful people. We are a  
12 country of people who the majority of whom are  
13 immigrants themselves or come from immigrant families  
14 who have come here for freedom and who take the  
15 principle of freedom, the motto on the Statue of  
16 Liberty very, very seriously and very much to heart.  
17 So it is inconsistent with who we are to be supporting  
18 policies that ultimately generate this culture of  
19 fear.

20 In Michigan, and in particular we've been  
21 dealing with two series of policies coming from the  
22 Department of Justice that are of tremendous concern.  
23 The first dealt with the investigations that went on  
24 with Muslim men from certain Middle Eastern countries.  
25 Over a thousand men in Michigan were part of what was

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 called an investigation, but what we view essentially  
2 as detention. The article from the -- or the letter  
3 from the Department of Justice to Senator Levin that  
4 Haaris mentioned actually talks about over 750 who  
5 have been detained as part of those investigations, it  
6 was a poorly conceived operation.

7 I had many conversations with law  
8 enforcement officers, including FBI officials who felt  
9 that it was a plan or a process that was not only  
10 poorly conceived but wasn't going to net them any real  
11 information. Instead, what it did was it generated  
12 fear, uncertainty and a lack of trust. For many of  
13 these men they are here, unfamiliar with the language,  
14 unfamiliar with the American justice system. They  
15 don't know what their rights are. They often come  
16 from countries where the police themselves are  
17 terrorists and did not feel that they had the rights  
18 or the capacity to decline an interview or to even  
19 bring an attorney with them. So that was something  
20 that we worked a lot on. We had a special hotline  
21 that we did in collaboration with ACCESS and the  
22 American Arab Antidiscrimination Committee and the  
23 National Lawyers Guild. We provided assistance, pro  
24 bono assistance to over 60 men. We went on many of  
25 the interviews with them. The questions that they

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 were asked were often very inappropriate about their  
2 religious faith, their religious belief, where they  
3 practice, wanting phone numbers of their friends and  
4 colleagues. These were all things that went way  
5 beyond what we think was appropriate for purposes of  
6 investigating the attacks on September 11th.

7 Additionally, the Free Press reported that  
8 there have been over 650 closed deportation hearings.  
9 This has been an important issue in Michigan. We are  
10 actually representing the Detroit News, an alternative  
11 newspaper called the Metro Times and Congressman John  
12 Conyers who attempted to go to one of these closed  
13 hearings involving a man named Rahbid Haadad from Ann  
14 Arbor, a Muslim cleric who had been living in this  
15 country for over 20 years. He was picked up shortly  
16 after September 11th on a minor visa violation and was  
17 held in solitary confinement, is still being held, but  
18 he was in solitary confinement and shackled and  
19 allowed one hour of exercise a week until Congressman  
20 Conyers was finally able to get the terms of his  
21 confinement changed. Well, we challenged the  
22 Immigration Law Court Judge Kreppes' memo ordering or  
23 giving to the Department of Justice the power to  
24 arbitrarily determine which deportation hearing should  
25 be closed in a federal lawsuit. We argued that the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 closing of these hearings violate the first amendment  
2 rights of the press and the public to know what is  
3 going on in our justice system. We were successful in  
4 Federal District Court and that case is now on appeal  
5 in the Sixth Circuit. There's a similar case also  
6 pending in the Third Circuit out of New Jersey. So  
7 this is an issue that has come very close to home with  
8 a very compelling human story and one in which I think  
9 really makes very clear what the implications are of  
10 having the Department of Justice arbitrarily in a  
11 power grab trying to expand its power and to diminish  
12 the power of our Federal Courts to act as a checks and  
13 a balance.

14 I want to ask you to not believe many of  
15 the polls you see that say Americans agree to give up  
16 their freedom in exchange for greater safety. I think  
17 the pollsters are having a great time right now. The  
18 newspapers are blasting these over the front page,  
19 over their front pages and I am very skeptical about  
20 the reality. Admittedly, the ACLU often preaches to  
21 the converted. We often do hear from the people who  
22 agree with us, but I also do believe that the freedom  
23 to be free from a reasonable search and seizure, the  
24 freedom to be able to say what is on your mind and to  
25 be able to say that in the street are freedoms that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 are very much treasured by everybody in this country.  
2 And I think the questions that are being asked are  
3 wrong. I think if you ask the public if they believe  
4 the police should be able to go into their home  
5 without a search warrant, they would say no. Asked if  
6 it would be okay to give up freedom for security, they  
7 might say yes, but when you rephrase it, when you  
8 actually talk about the loss of very individual,  
9 valued rights, I think you'll hear something very  
10 different.

11 And so I ask you, as the U.S. Commission  
12 on Civil Rights, to take a leadership role, to be  
13 brave and courageous, to support the initiative or the  
14 proposal of Mr. Edley to create an independent Office  
15 of Civil Rights that acts as another check and balance  
16 on many of the government policies that we're seeing  
17 coming from Washington. And I ask also that you  
18 recommend that the principal of proportionality be  
19 utilized in developing federal government policies.  
20 That is, policies involving privacy, involving the  
21 right to protest, the right to speak out, reflect the  
22 level of risk. For example, I've heard very little  
23 conversation about why a cockpit door can still be  
24 kicked in after all these many years of airline  
25 hijackings. How is it that airplanes are still being

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 built so that a cockpit door can be kicked in?  
2 Instead, we have closed deportation hearings.

3 How is it that the FBI and the CIA can be  
4 making all of the mistakes that have been reported in  
5 the press that they have made about being unable to  
6 process the amount of intelligence they have, being  
7 unable to translate the amount of intelligence we have  
8 and then we end up with the U.S.A. Patriot Act, a  
9 tremendous infringement on our civil rights and a law  
10 that I think is going to haunt us for many, many years  
11 to come.

12 So with all that being said, I really  
13 again thank you for coming to Michigan and am happy to  
14 answer any of your questions.

15 CHAIRPERSON BERRY: Thank you very much,  
16 Ms. Moss.

17 Mr. Hamad, please?

18 MR. HAMAD: Yes, my name is Imad Hamad.  
19 I'm the Regional Director of the American Arab  
20 Antidiscrimination Committee. It's the National  
21 Association of Arab Americans. It's the prominent  
22 civil rights organization in the nation with chapters  
23 across all cities.

24 I welcome you to Michigan and I commend  
25 you for this leadership role. I think it's consistent

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 your Advisory Board Committee in Michigan played this  
2 role last year and this year and I think it's highly  
3 needed in this trying and difficult time.

4 I understand that maybe we're talking  
5 about the Arab Americans and the Muslim American  
6 community as the immediate beneficiary or recipients  
7 of the many directives on policies that have been in  
8 effect post September 11th, but I have no doubt that  
9 the impact and the effect of these regulations and  
10 policies and laws are going to affect every single one  
11 of us as Americans, period, regardless of the race,  
12 national origin, color or faith.

13 Indeed, the challenges to the Arab  
14 Americans and the Muslim American community was not  
15 born on September 11 and I assume this is maybe one of  
16 the icons of our society that as great as it is that  
17 we have to go through a batch of challenges in order  
18 to set the record straight and enjoy the precious  
19 freedom and liberty and justice for all that we  
20 enjoyed for years and years.

21 I have no doubt that what we are facing  
22 now as an Arab American, Muslim American community, I  
23 know it's different in circumstances and nature, what  
24 have you, but the concept is the same as far as  
25 justice and equality for all. I have no doubt that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 how the other minorities were able to prevail and that  
2 our community despite the pain and suffering and the  
3 high price that will accompany this process will  
4 prevail as well because we're talking about a common  
5 goal and a common belief which is our strong belief in  
6 the fabric of this great nation and the constitution  
7 and the bill of rights where we're all proud of which  
8 at this point in time we see that it's been under  
9 attack and under siege and somehow is subject to a  
10 draft of rewriting through many policies that many  
11 speakers before me indicated.

12 I don't want to be redundant about the  
13 question of the issues and the many examples that we  
14 can cite. We have a breaking record, an unprecedented  
15 number of complaints in Michigan which I would say  
16 briefly that the concept of racial profiling which has  
17 been an ongoing challenge to all minorities and now  
18 may be as an Arab Americans, Muslim American community  
19 happens to enjoy the hot seat, the front seat, to have  
20 a direct taste of it like others before us, made us  
21 more aware, more appreciative to the struggle of  
22 others and made us more determined to meet the  
23 challenge and proceed. So this concept of racial  
24 profiling became so inclusive to a point I cannot  
25 exclude any segment of our society that we did not

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 receive a complaint or bias, racial discrimination,  
2 etcetera in the work place and the health arena,  
3 academic arena, law enforcement by all levels,  
4 city-wide, county, state, federal, etcetera.

5 I would say with no question that  
6 September 11th impacted all of our lives and changed  
7 so many aspects which put us before a challenge which  
8 our government, yes, needs to meet that challenge and  
9 develop and advance its capabilities and abilities to  
10 deal with this danger. And I'm sure that the strategy  
11 that the prevention of terrorism, it's a valid mission  
12 to our government because it ensures my safety, your  
13 safety, everybody's safety. However, this cannot be  
14 an open-ended strategy, it cannot be a strategy that  
15 is in the way of our Constitution and our basic  
16 rights. It cannot be without the checks and balances  
17 system. It cannot be without the safeguard that's  
18 needed to oversee. It cannot be effective without the  
19 judicial oversight that is being reduced day after  
20 day, given the law enforcement agencies or the  
21 Executive Branch to play the role of the jury and the  
22 judge and the prosecution at the same time, depriving  
23 people of all the basic due process rights.

24 The impact of this national policy that  
25 has been issued by the U.S. Department of Justice are

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 not only impacting the role of the federal agencies  
2 pertaining to the War Against Terrorism, it's also  
3 sending a very wrong message of not only the message  
4 of fear versus the message of trust that we need to  
5 enhance and advance and preserve and protect, but it's  
6 making the question of selective approach, selective  
7 treatments, selective prosecution as okay, as a legit  
8 style of our life, as an okay practice to every agency  
9 and we witnessed that in many practices of many law  
10 enforcement agencies, especially police departments. I  
11 know that we're used to a term "driving while you're  
12 black." Now we move beyond to say "driving while  
13 you're brown or Arab or Muslim or what have you." This  
14 has come in to be sending a message that it's okay to  
15 abuse those who look different, those who are of  
16 Middle Eastern descent or of Muslim faith. I can cite  
17 you a number of complaints that we recently received  
18 that are very disturbing where police officers in many  
19 cities here in Michigan has been stopping people for  
20 no apparent reason. Lucky if they give them a  
21 citation called traffic citation or minor citation,  
22 just to justify the abuse that they make the victim  
23 subject to. They drag them out of the car, throw them  
24 on the floor, handcuff them, physically abuse them.  
25 And in many cases, even the police officer don't give

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the person a citation. And we thought that this was a  
2 way for them not to be identified, so the person  
3 cannot identify who did that. And even in cases where  
4 people happen to have like their personal items such  
5 as a phone book or in some case it happened that they  
6 have their personal bank statement, they took it,  
7 without even disclosing that to the individual.

8 So it's becoming really ugly and it's  
9 becoming really very scary and I tell you that despite  
10 the fact that here in Michigan we have a role model  
11 maybe relationship with the law enforcement, I think  
12 we were able to work with the law enforcement at many  
13 levels. We had the good U.S. Attorney here who had an  
14 open door policy. We were able to meet on a monthly  
15 basis. It's a unique situation.

16 We had an open dialogue between the  
17 community at large and the law enforcement, but yet we  
18 know that differences continue to exist. It helped to  
19 make the situation better. It helped to keep at least  
20 we talk, at least we can help in a way or another, but  
21 still what is coming from the government, from the top  
22 ranking government there, is the source of the problem  
23 and I think the U.S. Civil Rights Commission is our  
24 voice and you are the voice that we, as citizens, lean  
25 on in such a trying time to take a leadership role by

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 voicing your concern aggressively.

2 We are not here to dispute the need of  
3 safety and the need of many reforms and advancement of  
4 capabilities or what have you. We're here simply to  
5 say that this cannot be taking place on account of our  
6 Constitution and our civil liberties. If I talk about  
7 the interview process, for instance, we had to deal  
8 with two episodes. They called it voluntary, but it  
9 was not. I attended many of these interviews. These  
10 interviews did not have any outcome, but just to be  
11 basic information, but it was clear that the purpose  
12 of these interviews is simply to create a physical  
13 contact with people. It was more of a psychological  
14 assessment to people and in some cases they tried to  
15 be tricky about the questions that they tried to ask  
16 and then yet it's obvious that they want to recruit  
17 all of these people to become somehow informants.

18 And now we're talking about the question  
19 of a closed hearing for 611 which it was like shocking  
20 news to everyone of us, where people, most of them,  
21 not a single case the government brought a charge or  
22 link to terrorist acts or criminal record or what have  
23 you. And yet, these people are subject to closed  
24 hearings mandated by the U.S. Department of Justice.  
25 These before September 11 used to be something even

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 the government, the INS itself did not bother to deal  
2 with. We're not here to advocate on their behalf.  
3 What is illegal is illegal. What is a violation is a  
4 violation. But our trouble is why they are not  
5 subject to the same afforded course of law that is  
6 afforded to everyone like when they talked about  
7 having a list of 316,000 who are in violation and they  
8 will not deport them, yet they have to make a special  
9 classification having 6,000 who happen to be of Middle  
10 Eastern descent as a type of priority. And a formal  
11 memo indicated that you catch these people, you treat  
12 them as suspect, you treat them as criminals.

13 I think it is scary and many people truly  
14 believe that we are moving in the direction of having  
15 a police state. The recent news about -- that was  
16 published by the Associated Press about having  
17 alternate agencies, employees, such as a post office  
18 and others and even the public service and  
19 electricity, etcetera, to become in a way or another  
20 informers to the government. Even now, if I have to  
21 call for a service at my house, I have to be careful  
22 of the serviceman or the servicewoman who comes to my  
23 house. That might raise concerns about it.

24 So finally, I would say that I think you  
25 know the Constitution, that's why you are the Civil

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Rights Commission on Civil Rights and we hold you  
2 responsible at this point in time to do your part and  
3 help us dealing with these challenges.

4 CHAIRPERSON BERRY: Okay, thank you very  
5 much for coming.

6 Mr. Amad, you didn't say whether you  
7 thought things were better than they were right after  
8 9/11. Everybody else did. I just thought you --

9 MR. AMAD: I'm sorry. It's hard to say  
10 because definitely after 9/11 there were, as far as  
11 volume goes, there was an immense amount of reports  
12 and just small things, even like verbal abuse, people  
13 trying to run people off the road. I had a lot of  
14 reports from that. But now, I think the cases are a  
15 little more insidious and they happen to deal more  
16 with the government than they do with private actors.

17 CHAIRPERSON BERRY: Does anyone else,  
18 before we -- yes, please.

19 VICE CHAIRPERSON REYNOSO: I just have a  
20 question for Mr. Amad. I've been a little bit  
21 frustrated. We had a forum in Washington, D.C. and we  
22 had a high official of the INS report to us that the  
23 INS was following all of their normal regulations and  
24 they required that a person be allowed to contact an  
25 attorney. Then right after that official testified, a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 lawyer testified and he testified about having a  
2 client, he was hired by the family and he hadn't been  
3 able to see the client because the client had been  
4 moved physically several times, that he flies to this  
5 place and then he had just been moved to another  
6 place. I'm not quite sure how to put those things  
7 together.

8 You've got testimony from an official  
9 saying yes, we're following the rules, and then we  
10 have testimony from the lawyer saying, I haven't been  
11 able to contact my client.

12 How do you put those two things together?

13 MR. AMAD: I can corroborate that and I  
14 don't know if it's the same case. If it was  
15 originally from Michigan, but right after 9/11, I got  
16 a call from somebody in Mexico City. He was the  
17 brother of a detainee. He didn't know he was a  
18 detainee at that time. He was missing, basically. And  
19 he thought maybe after 9/11 something had happened.

20 In any case, after much difficulty we were  
21 able to track down where he was and he was being  
22 detained in Monroe County and at first the U.S.  
23 Marshals told us they had nobody by that name in  
24 detention. Finally, we figured it out. Got an  
25 attorney for him, an immigration attorney. As soon as

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that happened, the first hearing was delayed and then  
2 he was transferred to North Carolina for no apparent  
3 reason. So I know that that is happening. I don't  
4 know what exactly the reason is behind the move, but  
5 there have been a lot of moves in that case and  
6 definitely, there have been -- I don't know if there  
7 have been outright denials of access, but they haven't  
8 made it easy for sure.

9 MS. MOSS: I'd just like to add, a lot of  
10 this information we would have if the government would  
11 respond to the Information Act requests that have been  
12 submitted by the civil rights groups we would get  
13 answers about where are people being held, have they  
14 been provided an attorney, if they asked for an  
15 attorney, I mean, any of those things, but we don't  
16 know because it's secret.

17 CHAIRPERSON BERRY: Yes, Ms. Braceras.

18 COMMISSIONER BRACERAS: I have a question,  
19 but I do want to say in response to some of the  
20 individual allegations that were brought up of abuse,  
21 I am pleased to see that lawsuits have been filed in  
22 some of those cases that you mentioned because that is  
23 the appropriate vehicle for dealing with many of these  
24 concerns and I'm fully confident that the courts will  
25 handle these cases in an appropriate fashion. And I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 would certainly encourage the other folks you  
2 mentioned who have not filed lawsuits or anyone else  
3 who feels they have been abused by government  
4 authority to do so and to use whatever other outlets,  
5 media attention and public relations tactics to draw  
6 attention to that. And again, I'm confident that our  
7 courts will be appropriate vehicles to ascertain the  
8 truth of those allegations and to deal with them, if  
9 they are true.

10 My question is with respect to the FBI  
11 interviews, what constitutional rights do you claim  
12 were violated by those voluntary interviews which I  
13 know you and some people on the panel have alleged  
14 were coercive, but what specific constitutional right  
15 do you allege is violated by those interviews?

16 MS. MOSS: Well, first of all, let me just  
17 say that we recognize the right of the FBI to gather  
18 relevant information and we're not questioning that.

19 COMMISSIONER BRACERAS: Do you believe  
20 constitutional rights were violated in those  
21 interviews, and if so, which ones?

22 MS. MOSS: Well, not necessarily, no.  
23 Well, we took issue with some of the questions. We  
24 were able to obtain a list of the questions that the  
25 FBI was going to ask in all of the interviews or I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 think it was a list from the Department of Justice. We  
2 went through that and for the men that we counseled,  
3 we advised them not to answer certain questions and  
4 they didn't answer those questions.

5 I can't speak with respect to the others,  
6 but we certainly felt that many of those questions  
7 were intrusive, were inappropriate, would not lead to  
8 relevant information and would perpetuate this climate  
9 of fear.

10 COMMISSIONER BRACERAS: So if I understand  
11 you correctly, you believe that some of the questions  
12 were inappropriate and intrusive, but you do not  
13 believe that they were illegal or that anybody's  
14 rights were violated?

15 MR. HAMAD: Well, according to our  
16 perspective, we see it as -- we disapproved of the  
17 process. We don't dispute the right for the  
18 government to gather any information, but to do it in  
19 that selective fashion where people were chosen based  
20 on religion, gender and national origin smacks of  
21 racial profiling and that's a concept we refute.

22 COMMISSIONER BRACERAS: I'm sorry, is it  
23 your allegation then that the interviews violated  
24 somehow the Equal Protection Clause of the United  
25 States Constitution?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. HAMAD: I stand by that. I truly  
2 believe that the Department of Justice clearly stated  
3 that these people are not suspects and they should not  
4 be treated as suspects. However, during the course of  
5 the interviews, it was clear that regardless how you  
6 define it and you name it, describe it; they were  
7 suspects.

8 That's the bottom line to it and I think  
9 there's a difference when you say it's voluntary and  
10 you define voluntary by giving the full rights for the  
11 individual simply to decline and not to have a  
12 follow-up call while in this case it was by name  
13 voluntary, but it was not.

14 Although it was done in a very  
15 professional way, we did not register or say  
16 violations or irritations, but in many interviews I  
17 attended myself, I noticed that some -- maybe not  
18 necessarily of the FBI Agents because keep in mind  
19 that this process was conducted by so many law  
20 enforcement officers, police officers from many  
21 divisions from many cities who were not even aware of  
22 what they are doing. And each interview was handled  
23 in a different fashion.

24 So some of it was tricky, yes. Some of it  
25 even they did not comply with the understanding that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 took place. However, I would say in Michigan, in  
2 particular, I think due to the good relation and the  
3 dialogue and the consecutive discussions that we had,  
4 with the U.S. Attorney's Office, we were maybe the  
5 only state who used the form of letter contact.  
6 Because when we came to discuss it, we said but you're  
7 telling us it's voluntary. You're telling us these  
8 are not suspects. So why do you want to go to their  
9 houses, knock at their doors or to their workplace or  
10 what have you and this is why we used the form of  
11 letter notification.

12 I think the law enforcement, relatively  
13 speaking here in Michigan, they were very cooperative.  
14 I don't want to make it rosy that we -- we even  
15 initiated a call to all people who were asked to be  
16 interviewed to cooperate, to fully cooperate, but yes,  
17 we insisted on the presence of an attorney because  
18 quote, unquote, there's a question of trust there of  
19 the motives and the intentions.

20 COMMISSIONER BRACERAS: Okay, I have a  
21 follow-up on that and that is well, first of all,  
22 there's certainly no constitutional right not to be  
23 inconvenienced or even embarrassed or treated  
24 inappropriately. As bad as that may be is a policy  
25 matter. It's certainly not a civil right not to be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 embarrassed or inconvenienced, so I'd like to make  
2 that perfectly clear. But with respect to the  
3 allegation of an equal protection violation and I  
4 guess I would direct this comment to the attorney on  
5 the panel. I certainly wouldn't expect non-attorneys  
6 to answer this, but the Sixth Circuit Court of Appeals  
7 for Michigan, well, it covers Michigan, has recently  
8 held in the context of Affirmative Action that race  
9 can be considered by the government as one factor,  
10 among many, and that that constitutes a compelling  
11 state interest creating a diverse study body. How can  
12 it be that creating a diverse student body is a  
13 compelling state interest but considering race or  
14 ethnicity at airports, not as a sole factor, but as a  
15 plus factor, one of many, in order to save lives, is  
16 not a compelling state interest?

17 MS. MOSS: I think you're mixing apples  
18 and oranges. I don't think one has anything to do  
19 with the other.

20 COMMISSIONER BRACERAS: It's the same body  
21 of law.

22 MS. MOSS: No, it's not. When you're  
23 talking about using race or ethnicity in the context  
24 of Affirmative Action which frankly is not the subject  
25 of today's panel, but when you're talking about that,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you're talking about educational policy question.

2 What we're talking about here is the use  
3 of race or ethnicity as a vehicle for the enforcement  
4 of our criminal laws --

5 COMMISSIONER BRACERAS: No. It's a  
6 vehicle to stop and interview.

7 MS. MOSS: Stop and interview, potentially  
8 detain, potentially put in jail, potentially deport.  
9 You're talking about the use of race or ethnicity to  
10 bring in the full power of the government on to people  
11 solely because of somebody's race and we also have a  
12 tremendous body --

13 COMMISSIONER BRACERAS: I don't think  
14 that's what the airport stop --

15 MS. MOSS: We also have a tremendous body  
16 of law that says that using race or ethnicity in order  
17 -- in employment, in public housing, in enforcement of  
18 our criminal laws, is unconstitutional for very good  
19 reasons. Again, I think it's apples and orange.

20 MR. AMAD: If I may comment. I am also an  
21 attorney by the way --

22 COMMISSIONER BRACERAS: Great.

23 MR. AMAD: The basic premise behind  
24 Affirmative Action is actually to redress past  
25 discrimination, whereas in this case, the scenario

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that you present, there's no redress of past  
2 discrimination here. This is, actually, you are being  
3 used to single out a group with -- there's not that  
4 justification there.

5 COMMISSIONER BRACERAS: So you believe  
6 that redressing past discrimination is a compelling  
7 state interest, but saving lives is not, just to be  
8 clear.

9 MR. AMAD: No. Actually, I'm just going  
10 upon the basis of the Court and what they have stated,  
11 actually. So I'm not Supreme Court and I'm stating  
12 what the law is.

13 COMMISSIONER BRACERAS: I'm done.

14 CHAIRPERSON BERRY: Question on some other  
15 subjects since the panels didn't come prepared to  
16 discuss Affirmative Action.

17 I think they've answered your question,  
18 asked, answered.

19 Can we thank -- yes, Mr. Kirsanow, please,  
20 Commissioner.

21 COMMISSIONER KIRSANOW: First of all,  
22 thanks very much for coming here. It's been very  
23 informative. Commissioner Braceras asked whether or  
24 not you perceived a constitutional violation in the  
25 FBI's questioning of individuals.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1           Were there any other constitutional  
2 violations that you can tell us about in the wake of  
3 9/11 in terms of the government's efforts to, for  
4 example, gather information, possibly deport  
5 individuals, determine whether or not somebody was a  
6 member of a terrorist organization, so on and so  
7 forth?

8           MS. MOSS: The ones that we're aware of --  
9 again, it's hard to know what has happened because the  
10 government is not providing or opening the books so  
11 that we can see what's happened.

12           Obviously, the closed deportation  
13 hearings, we feel clearly violate the first amendment.  
14 We object to the selective enforcement of immigration  
15 laws against people solely because of their race,  
16 ethnicity or religion, when we have hundreds of  
17 thousands of people in this country with visa  
18 violations, targeting people only from certain Middle  
19 Eastern countries, we feel raises serious equal  
20 protection issues.

21           We don't know enough about the people who  
22 have been detained to know whether or not they've been  
23 deprived of their right to counsel. We don't know if  
24 they're being held in conditions that would violate  
25 the eighth amendment. I can tell you the conditions I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 saw Rahbid Haadad held in raise serious concerns for  
2 me, too.

3 So I mean that's our initial -- we're  
4 concerned about this TIPS Program, the recruiting of a  
5 million people to essentially act as domestic spies. I  
6 think the government could find itself faced with many  
7 lawsuits from private individuals who invite somebody  
8 in their house to check their telephone, only to find  
9 out that essentially an unlawful search has been  
10 conducted.

11 CHAIRPERSON BERRY: Okay, is that --

12 COMMISSIONER KIRSANOW: Just a follow up.  
13 In terms of a balancing of interest and I think  
14 Commissioner Braceras may have touched on this, you  
15 indicated that people were being detained or deported  
16 based on race, ethnicity or religion.

17 However, it seems to me that there's a  
18 number of factors that are being utilized. It's been  
19 testified to that isn't exclusive to race and/or  
20 ethnicity and/or religion, but a confluence of factors  
21 based on the very substantial or rational basis that  
22 may be obtained by what has happened.

23 With respect to 9/11, it seems to me that  
24 a similar argument would be made by the government if  
25 all of the hijackers, for example, had been

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

1 Danish-Americans and had a pin on their lapel saying  
2 "I am Danish." Or if any of the other terrorists, any  
3 of the other bombings or anything of that nature,  
4 World Trade Center of 1993. There is a profile that's  
5 not necessarily related to race, not necessarily  
6 related to ethnicity, but as I say, a confluence of  
7 factors.

8 I don't think there's a balancing of  
9 interest that the government may have as Commissioner  
10 Braceras said, a compelling government interest to  
11 investigate, to question, to research individuals who  
12 fit a profile, not a racial profile, but a profile as  
13 has been established by copious evidence since 9/11?

14 MS. MOSS: There were profiles before  
15 9/11. We have no objection to behavioral profiles. We  
16 object to profiles based on race or ethnicity, and let  
17 me remind or at least provide you with some  
18 information.

19 On September 11th, those terrorists bought  
20 \$14,000 in one-way tickets in cash on the day of the  
21 attack. That is behavior that can be profiled. That  
22 was a profile that was in existence before September  
23 11th, but the airlines failed to implement it. Had  
24 they implemented it, it's very possible that September  
25 11th wouldn't have happened. And we have no objection

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 to that. But we see now is people wanting to go  
2 beyond that and look at race or ethnicity alone or  
3 even some combination and I can tell you this is  
4 having a tremendous impact, not just on the Arabic  
5 community, but also on the African American community  
6 and the Latino community because people are being  
7 mistakenly identified as Arabic.

8 The ACLU's national racial profile  
9 coordinator, actually, who is an African American man,  
10 but looks Arabic, has been stopped I think on every  
11 single airplane he's tried to have flown and I may be  
12 exaggerating, but I think it's close to that since  
13 September 11th. So this has widespread implications  
14 for everybody and it's not effective as a law  
15 enforcement tool because I think groups like al  
16 Quaeda, terrorists are going to quickly find ways to  
17 circumvent those racial profiles. They'll recruit  
18 people with white skin. They are recruiting people  
19 who are Dutch. And they're going to find ways to get  
20 around it and if you're only looking at people based  
21 on their color, you are going to be making some  
22 serious mistakes, I believe, and miss real terrorists.

23 MR. AMAD: If I may also point out, you  
24 mentioned 1993 World Trade Center bombing, but you  
25 didn't mention the Oklahoma City bombing. Timothy

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 McVeigh was a white Methodist with a buzz cut. Now if  
2 we use that profile, because we should, right, there  
3 is certainly a profile there and also the militia,  
4 Michigan militia and various militias certainly fit a  
5 certain profile based off of race, I suppose, that you  
6 could make an argument for that, right?

7 Then why aren't we doing that? Definitely,  
8 even if we make that argument then, we're definitely  
9 profiling here based off of -- we're definitely  
10 discriminating here.

11 COMMISSIONER KIRSANOW: I agree with you  
12 that Timothy McVeigh did bomb the Oklahoma Federal  
13 Building. There was a profile established for certain  
14 individuals along those lines and there were  
15 considerable number of investigations by the FBI with  
16 respect to individuals who fit that profile.

17 This is a difficult circumstance. There's  
18 no if, ands, or buts about it. What we have here are  
19 we've got 3,000 people who are dead, potentially more.  
20 The last thing we want to see is the Detroit River  
21 have a barge with a suitcase nuke on it. When you're  
22 asking the government with finite resources to take on  
23 an infinite job such as in Detroit, my understanding  
24 is and maybe some of you can tell me, 40 million  
25 people cross over between Canada and the United States

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 every year. You only have 130 Customs Agents to ask  
2 those people questions to make sure there isn't  
3 contraband coming through and they've got all kinds of  
4 other duties associated with being a Customs Agent.  
5 Given that you have finite time, finite resources, and  
6 there are immutable characteristics and mutable  
7 characteristics. You combine all those  
8 characteristics to the best of your ability to focus  
9 on those areas that may cause the greatest concern.

10 With respect to mutable characteristics, I  
11 guarantee you another Muhammed Atta is never going to  
12 pay cash for airline tickets. Those things are easily  
13 amended. Behavioral profiles should be focused on,  
14 but they change just as mutable profiles -- immutable  
15 profiles will change. The next terrorist may, for  
16 example, come from Japan. Who knows? But given what  
17 we have right now, given what we have right now, it  
18 seems to me it makes perfect sense for law enforcement  
19 authorities to focus their attention where they see  
20 the greatest risk. To do otherwise would be  
21 ridiculous.

22 If our law enforcement community, for  
23 example, decided not to focus on Swedish women over  
24 the age of 70, we'd be saying what the heck are they  
25 doing?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. AMAD: And if I may, again, you just  
2 said there's immutable characteristics and you can  
3 take the \$14,000, nobody will pay \$14,000 again.  
4 Similarly, Richard Reed, Jose Padilla, all of these  
5 were different profiles, and it would be remiss of us  
6 to focus now on what's already happened, we should  
7 start looking to the future. I say rely upon  
8 intelligence which we did not do in the past. Get  
9 real intelligence. You have intelligence that  
10 somebody from Ireland is going to come and there's  
11 going to be a threat, then yes, focus on them. But to  
12 say that every Muslim male, 1.2 billion Muslims in the  
13 world, 1.2 billion Muslims in the world is going to be  
14 somehow suspicious and we're going to pull them over,  
15 I don't think that's going to work. I think we need  
16 to involve the Muslim community, Arab community in  
17 actually figuring out how can we -- I can identify  
18 pretty easily within the Muslim community, I could say  
19 what's suspicious, what's not. But you know what, the  
20 government hasn't done a very good job of winning our  
21 trust.

22 CHAIRPERSON BERRY: We have been very  
23 patient and our third panel, our SAC members, have yet  
24 been able to say anything. I'm going to let you  
25 comment and then we're going to do that.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 MR. HAMAD: I'll be very quick. We don't  
2 have a problem with profiling as long as it's based on  
3 conduct or behavior and that is where you don't leave  
4 any room for our enemies who are there to manage to  
5 beat the system that was put in effect.

6 Second, I think the government itself at  
7 all levels testified to the level of cooperation in a  
8 system that it received from the Arab American  
9 community when it became to this mission of their role  
10 to combat the danger of terrorism. Under no  
11 circumstances we create a false impression that we try  
12 and not to care about safety and then trade safety  
13 with other rights. I think we don't see any  
14 contradiction and I think a balanced system can more  
15 -- can be more effective that's in all of our  
16 interests. And I'm not an attorney.

17 CHAIRPERSON BERRY: All right, thank you  
18 very much.

19 Now if we could ask our SAC Members to  
20 come before us and this is the last discussion we'll  
21 have today.

22 We have here -- and our SAC Members have  
23 been here all morning and we first want to tell you  
24 how much we love you and appreciate you. That's the  
25 first thing we want to tell you publicly. We're

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 permitted to love you and appreciate you.

2 And the first person I want to introduce  
3 is Mr. Roland Hwang of Northville, Michigan. I don't  
4 know where Northville is. Is that around here  
5 somewhere? He's the Assistant AG with the Michigan  
6 Attorney General's Office, Revenue Division and former  
7 Chairperson of the Committee and he was first  
8 appointed in 1990.

9 The other is Mr. Noel John Saleh of  
10 Detroit, right here, who is an attorney and Member of  
11 the NAA and all of the organizations that do work in  
12 this area including the Arab Community Center for  
13 Economic and Social Services, ACCESS, that we heard  
14 from, and the Greater Detroit Chapter of the Arab  
15 Americans Antidiscrimination Committee.

16 And Ms. Sue Hamilton-Smith who has been  
17 here all morning.

18 VICE CHAIRPERSON REYNOSO: Even before the  
19 meeting started.

20 CHAIRPERSON BERRY: She's Vice President  
21 of Programs for the New Detroit, Incorporated which is  
22 having the event today that we were told about and  
23 former Executive Assistant to Detroit Mayor Coleman  
24 Young. She's on the Board of the Urban League,  
25 Diversified Youth Services and all kinds of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 organizations that try to make a difference in the  
2 life of the community.

3 So let me recognize you and ask you to  
4 please speak to us and, Mr. Hwang, is there something  
5 each of you would like to say to us, having heard  
6 everything else that's taken place?

7 MR. HWANG: First off, I want to on behalf  
8 of the Michigan SAC thank the U.S. Commission of Civil  
9 Rights for coming to Detroit because we think it's  
10 extremely timely and it's very important that you come  
11 visit the different SACs at the locations to hear  
12 first hand from the Panel that we just heard from, for  
13 example, about the real testimony, as opposed to  
14 through reports or through even our own words, and so  
15 we really appreciate your coming out to the field and  
16 we hope that it continues as a matter of practice.

17 Because there are 400,000 to 450,000 Arab  
18 Americans in Michigan, we thought that it was  
19 important for us to face the issues, the civil rights  
20 issues facing the Arab American community and that's  
21 why we had a community forum in September, on  
22 September 27, 1999 and for the sake of brevity, I'll  
23 just hit the six points that were discussed and they  
24 were policing, employment discrimination,  
25 discrimination on the street, detention at the border,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 secret evidence and profiling. And those were the  
2 issues and let me assure you that those issues have  
3 not gone away. And they remain the same as they were  
4 in 1999 and at the time that we released our report in  
5 May 18, 2001.

6 I don't want to go through the same  
7 testimony that we heard from Ishmael Ahmed and Imad  
8 Hamad because they testified at that community forum.  
9 You heard them today. But to talk about some of the  
10 other issues. Ron Dezel was called to testify. He's  
11 the Chief of Police in Dearborn. Dearborn has a 30  
12 percent of the population is Arab American. Seventy  
13 percent of the students in the Dearborn public schools  
14 are Arab American and yet he admitted that he did not  
15 have very good luck recruiting law enforcement out of  
16 the Arab American community, that just 7 out of 100  
17 recruits during his 14-year tenure as Police Chief  
18 were Arab Americans. So that just spotlights one  
19 problem issue.

20 Another issue is trust. You've certainly  
21 heard a lot about it here, but Maya Berry from the  
22 Arab American Institute talked about the lack of trust  
23 because the FBI is empowered to guard against  
24 terrorism and it also has its Hate Crimes Unit, but  
25 how do you trust an organization that has that two

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealgross.com](http://www.nealgross.com)

1 pronged authority and it might come back and bite you  
2 in terms of the same agency is charged with both  
3 issues. That's testimony from Maya Berry.

4           Zodar Adel Hack testified about disparate  
5 fines. Now it was just empirical testimony, anecdotal  
6 testimony, but the fact of the matter is with David  
7 Minot, the research individual, the analyst out of  
8 Chicago, we have to rely on community forums and we  
9 don't have the statistics or the exhaustive research  
10 projects to get at more into the detail and so we just  
11 rely upon that anecdotal information. But there is  
12 some area to research in terms of whether or not there  
13 are disparate fines being meted out based upon  
14 ethnicity.

15           Abed Haamoud of the Arab American PAC,  
16 political action committee, talked about doing a study  
17 and finding that in Dearborn, with that 30 percent of  
18 the population being Arab American, only 2 percent of  
19 the city work force in Dearborn was Arab American and  
20 only 4 percent, if you count, part-time workers. So  
21 there's certainly a picture that we're trying to show  
22 through the community forum that not is all right with  
23 the Arab American community in terms of policing, in  
24 terms of discrimination, in terms of employment.

25           Detention at the border. Carl Levin, our

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 senior Senator, U.S. Senator, talked about innumerable  
2 complaints regarding detentions at the border and that  
3 was backed up by our junior Senator at the time,  
4 Senator Abraham who is now the Energy Secretary that  
5 many, many complaints came into his office as well.

6 With respect to the INS and FAA and  
7 security at the airport, we did have at the time  
8 testimony from Dennis Reading who is the Security  
9 Field Unit Supervisor at Detroit Metro. He filled us  
10 in on CAPSS, the computer assisted passenger security  
11 system, but he wouldn't talk to us about anything  
12 about it, other than the assurance that it doesn't  
13 define people by their ethnicity, but he wouldn't talk  
14 about it. He said it's all defined in Washington,  
15 that he didn't have any latitude to modify the CAPSS  
16 system. But we didn't get any information other than  
17 the assurance that it was not anything but race  
18 neutral. So there's a big hole with respect to  
19 understanding even the rudiments of the CAPSS system.

20 With respect to the INS, Carol Jennifer  
21 indicated that yes, the process can be intimidating,  
22 but that the INS does have people who go through  
23 mandatory service training and we questioned whether  
24 or not just having mandatory service training is  
25 enough to the extent that you can have training, but

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 is it effective and does it work.

2 With respect to secret evidence, it's been  
3 around since 1955, but we question the wisdom of the  
4 secret evidence procedure. Imad Hamad was subject to  
5 that for a 12-year against the INS and you heard from  
6 him just a few minutes ago. He went through that  
7 process for quite a number of years and beat the INS  
8 and was able to stay.

9 Yes, if you have secret evidence, there's  
10 a right to appeal, but it's kind of hard to  
11 effectively win an appeal when you don't know what the  
12 accusations are, whose bringing it, that sort of  
13 thing. And so if Mr. Imad Hamad is still here, he can  
14 probably answer that, if you have some questions in  
15 that regard.

16 With respect to profiling, that's already  
17 been addressed in terms of driving.

18 With respect to the situation in the city  
19 of Dearborn, Michael Guido is the Mayor and he talked  
20 about having two of his six staffers are Arab  
21 American. That's on the plus side. They've been  
22 named to City Planning, Telecom Board of Appeals and  
23 Zoning Commission. There is a Diversity Awareness  
24 Program in place. There's a very large Arab American  
25 festival in Dearborn.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           But on the negative side, it's kind of  
2 curious that it is one of the few cities that has a  
3 Homeland Security Office and you wonder why they put  
4 it in place in Dearborn.

5           With respect to discrimination, Mohammed  
6 Allahi of the Islamic House of Islam talked about  
7 discrimination because of people wearing the hajab,  
8 discrimination on that basis or merely being bearded.  
9 So that's information that we learned back in 1999.

10           Post 9/11, the ADC has provided  
11 information to us with respect to the November 9, 2001  
12 DOJ directive to do the interviews. Jeff Collins came  
13 to visit us and gave testimony about the voluntary  
14 nature of it. And yes, the Department of Justice and  
15 the Eastern District of Michigan, U.S. Attorney's  
16 Office did work with ADC to fashion a quote unquote  
17 voluntary letter. You heard about that in the  
18 testimony from Imad Hamad about well, is it truly  
19 voluntary and they weren't entirely happy about being  
20 singled out to be recipients of these voluntary  
21 letters.

22           Of the 5,000 Arabs identified age 18 to  
23 33, males, more than 500 of them were here in the  
24 Eastern District of Michigan and that's testimony from  
25 Jeffrey Collins.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1           And the question is with respect to  
2 selective enforcement or whatever it is, is it  
3 targeting? Is it selective enforcement? The issue of  
4 the 6,000 Arab men that are being singled out, even  
5 though there are 316,000 deportation orders that are  
6 outstanding and if that isn't targeting, I would be  
7 wondering what that is.

8           With respect to 9/11 and post-9/11, Ismael  
9 Ahmed gave us testimony. You heard from him already.  
10 But he talked at length in front of us on June 27th  
11 about the voluminous e-mails that used the word sand  
12 nigger or other racial epithets. He didn't go into  
13 detail about that today, but he talked about people  
14 calling in thinking that they were surveilled by the  
15 FBI without any justification. Lots of incidents of  
16 property damage, about 150 in number as reported to us  
17 by Imad at the June meeting.

18           Lila Aman of the Dearborn Public Schools  
19 who is the community liaison gave testimony about  
20 being proactive, post 9/11, but she also talked about  
21 some situations involving the football game and track  
22 meet with Monroe, Michigan versus Edsall Ford High  
23 School which is predominantly Arab where -- wrong high  
24 school in Dearborn, where there were some verbal  
25 epithets and I guess some attempted assaults involving

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 both the track meet and the football game. And so  
2 that is something that they're watching and it's  
3 something that arose between individuals from Monroe,  
4 which is south of Detroit and people at Fordson.

5 With respect to the pluses and minuses  
6 that have arisen post 9/11, Brent Seaver killed Ali  
7 Hamansu on September 19, 2001. Just a few days ago he  
8 was found guilty and sentence to life without parole  
9 and so there a favorable result in terms of sentencing  
10 involving this one homicide.

11 On April 14th, there was a pro Palestine  
12 rally in Dearborn and you'd think that people have the  
13 right to free speech and have the right to participate  
14 and assemble and Iman Al Hussein joined this pro  
15 Palestine rally midway through it and was subsequently  
16 arrested by the Dearborn Police. I'm happy to report  
17 that as of a few days ago, July 15th, the charges were  
18 dropped by the City of Dearborn and so I'm happy to  
19 report that was a result of some intervention by the  
20 ADC.

21 With respect to the State level, the  
22 Attorney General, Jennifer Grandholm has put in place  
23 a Hate Crimes Prevention Task Force. We hope it's a  
24 model. I'm a member of it, as well as about eight  
25 other Assistant AGs. It is a model that is being

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 watched by Human Rights Watch as being a model that  
2 can be duplicated around the country and also the  
3 Department of Civil Rights in the state is very active  
4 in its community relations work. Lila Sabahana is  
5 here as the Arab American Affairs Specialist working  
6 with her boss, Dr. Nan Reynolds who is the Department  
7 Director. She's been in her position as a specialist  
8 since 1995, focusing on a couple of issues involving  
9 secret evidence and ethnic profiling. She's been  
10 involved with meetings with officials of Northwest  
11 Airlines with respect to those issues of profiling at  
12 the airport, Detroit Metro Airport.

13 With respect to the sort of cross  
14 involvement by the Department of Civil Rights at the  
15 state with the community, Dr. Nan Reynolds is a member  
16 of the chapter of the Arab American Discrimination  
17 Committee, the ADC and the president of the Arab  
18 American Muslim Council, Dr. Yaha Mosabosha is a  
19 member of the State Civil Rights Commission.

20 The Department of Civil Rights is a member  
21 of the Advocates and Leaders for Police Community  
22 Trust, ALPCT and is a partner with ADC in reviewing  
23 discrimination complaints. There is a partnership  
24 between the Department of Civil Rights and the ADC.  
25 With respect to their involvement in programming,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 they're involved in a Street Law Day in Dearborn, I  
2 guess, to increase the understanding of civil rights  
3 laws, generally focusing on Street Law Day in  
4 Dearborn.

5 So with respect to recommendations, if you  
6 will visit our report which was issued in 2001, we ask  
7 that the U.S. Commission on Civil Rights take a look,  
8 if it is empowered, to take a look at the CAPSS  
9 program, because we were not able to get behind the  
10 CAPSS program to understand anything, even in a  
11 rudimentary way, with respect to any assurance that it  
12 is race neutral, race or ethnic neutral. And to take  
13 some action with respect to profiling. I know  
14 profiling and legislation has been pending on the Hill  
15 with respect to banning the practice of profiling,  
16 certainly unless there's some probable cause, but I  
17 doubt if profiling can be implemented based upon some  
18 inherent race, gender or ethnicity, you know, rule.  
19 There's nothing inherent in race of ethnicity that  
20 would allow profiling to be actually an effective tool  
21 and we would urge that you continue your vigilance in  
22 looking at that as an issue.

23 And I defer to Sue Hamilton-Smith and Noel  
24 Saleh, if they have any comments.

25 CHAIRPERSON BERRY: Ms. Hamilton-Smith, I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 wish to hear your voice.

2 MS. HAMILTON-SMITH: It's such an honor to  
3 be before you. You are an icon in Detroit, a  
4 courageous civil rights warrior. We really appreciate  
5 you.

6 I'll be very brief. I just would like to  
7 make one comment that I work in Detroit as I think  
8 most of you have this newsletter which shows that two  
9 days after September 11th we convened our membership  
10 to show this community and to stand as an example that  
11 we should unite with our Arab and Caldian neighbors  
12 and certainly make an all out call that there are not  
13 to be an terrorism against them and we feel somewhat  
14 proud that that was well received in our community.

15 I would like to take one second to  
16 disagree with a comment that I believe I heard from  
17 one of the members of the Commission earlier that --  
18 that implied that the Japanese internment was not  
19 relevant to our current conversation. References to  
20 the Mexican deportation that occurred in Detroit in  
21 the 1920s, the internment, the McCarthy era, spying on  
22 people's neighbors are frequently heard at our New  
23 Detroit Multi-cultural meetings.

24 This area is home to a large number of  
25 Arabs and Caldians and statistics regarding detention,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 secret evidence, loss of due process for immigrants  
2 are much more than just numbers to the people in this  
3 area. These numbers are our friends, our relatives of  
4 friends of people that we know. There is an  
5 overriding concern regarding this systemic attack on  
6 civil rights, specifically efforts like TIP which  
7 encourage reporting on one's neighbors and legislation  
8 that is coming down the pike and in some cases, I  
9 gather, are already here, allowing wire tapping and  
10 other invasive investigations.

11 According to the United States Census,  
12 unfortunately, you probably already know that this  
13 area is the most residentially segregated in the  
14 country. We have therefore long experience with  
15 problems like driving and shopping while black and  
16 Mexican and Arab and now certainly flying while Arab.  
17 Many of us have worked for many years challenging  
18 these barriers and injustices and we would ask the  
19 Commission to help us fight against any legislation  
20 that would exacerbate the mistrust that exists among  
21 people.

22 Thank you very much for coming to our  
23 area.

24 CHAIRPERSON BERRY: Thank you. Mr. Saleh?

25 MR. SALEH: I actually want to reaffirm

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 our thanks to the Commission for the efforts, since  
2 you do on an annual basis and coming is especially  
3 heart warming that you are coming out to the community  
4 and we know that if I might understand it correctly,  
5 this is one of your first ventures out to meet in the  
6 community and we would strongly encourage you to do it  
7 again in other cities throughout the country, that it  
8 really is a positive thing to be able to have this  
9 interchange and see the Commission and its serious  
10 deliberations. I think more and more American people  
11 should be exposed to that. It shouldn't be hidden  
12 away in meetings in Washington, D.C.

13 The Commission has heard substantial  
14 testimony today and has heard from other State  
15 Advisory Committees and then from members of the  
16 community here and then Roland and Sue, and for me to  
17 add to that would just be redundant and I don't want  
18 to do that.

19 I just would like to say from my  
20 particular perspective, the issue of putting civil  
21 rights as a major effort in every program is integral  
22 for the continued well being and existence of our  
23 country. As one Member of the Commission said, isn't  
24 the primary duty of the country to protect its  
25 citizens? Yes, and an equal primary duty of the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 government is to protect the welfare and the civil  
2 rights of its citizens and to have an agency as  
3 powerful as Homeland Security without having a  
4 component relative to monitoring civil rights in that  
5 is a dangerous precedent. It does lead and could well  
6 lead to situations as embarrassing as the Japanese  
7 internment camps in the Second World War. We're not  
8 unaware and we're not unmindful of the fact that it  
9 was 18 months after the bombing at Pearl Harbor that  
10 the internment camps were initiated. We aren't 18  
11 months away from September 11th and if there is, in  
12 fact, another terrorist attack on the United States,  
13 then such things can be revisited. This is -- while  
14 we hope it's a new America, it's not the same America.  
15 The history of racism in this country, it didn't stop  
16 being racist when the fourteenth and fifteenth  
17 amendment were enacted as we're all painfully aware.  
18 It hasn't changed substantially or certainly  
19 sufficiently since the SACs of 1964 1864 and  
20 subsequent legislation and these are issues that we  
21 have to be ever vigilant of in our country if we are  
22 not to lose those rights. And so we -- I really think  
23 that those are -- the Commission has the unique role  
24 to play in our government to keep that portion of our  
25 protection as all Americans need to be productive. So

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I thank you for your work.

2 MR. HWANG: May I add one thing?

3 CHAIRPERSON BERRY: Yes, before we go.

4 MR. HWANG: As an adjunct professor of  
5 Asian American History of the University of Michigan,  
6 we talk about internment, the internment experiment,  
7 the concentration camps of World War II to this day  
8 and there are a lot of lessons to be learned from that  
9 sad chapter and to the extent that on the one hand  
10 it's under inclusive because the German Americans were  
11 not interned, the Italian Americans were not interned,  
12 and yet it was over inclusive because there wasn't any  
13 example of any sabotage by anyone who was Japanese  
14 American and it encompassed 70,000 U.S. citizens.  
15 Those are lessons not to be forgotten, that they  
16 interned 120,000 people, 70,000 of whom were U.S.  
17 citizens. There are lessons to be learned from that  
18 sad episode. And we hope it never, never gets  
19 repeated again.

20 CHAIRPERSON BERRY: Okay, thank you very  
21 much for coming. Thank you for all you do.

22 Commissioner Kirsanow?

23 COMMISSIONER KIRSANOW: Mr. Hwang, first  
24 of all, thanks very much for coming. You mentioned  
25 that the City of Dearborn has a Homeland Security

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 office and the suggestion was that that was peculiar  
2 in some respect, although it's my understanding that  
3 many cities, I know where I'm from, a number of the  
4 cities and suburbs from Northeast Ohio have Homeland  
5 Security, maybe not offices, but officers.

6 Has there been any adverse impact that you  
7 can define from the establishment of the Homeland  
8 Security Office in Dearborn?

9 MR. HWANG: Not that I know right off the  
10 bat. Just don't have any information. I'm just  
11 wondering why it's created in Dearborn as opposed to  
12 --

13 COMMISSIONER KIRSANOW: Are there no other  
14 Homeland Security Offices or officers in the Detroit  
15 Metro area?

16 MR. HWANG: Not that I know of. Dearborn  
17 is a suburb of the City of Detroit. Detroit, the  
18 major city, does not have a specific office of  
19 Homeland Security, so the fact that the City of  
20 Dearborn which has this high concentration of Arab  
21 American population chooses to publicly pronounce that  
22 we're going to create and it's still in the process of  
23 creating it, an Office of Dearborn Homeland Security  
24 is peculiar and that's I think was the meaning of the  
25 comment and the report from the Commission is that we

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 find that peculiar.

2 COMMISSIONER KIRSANOW: See, the way I  
3 view it is, one way it can be viewed is you mentioned  
4 the Japanese internment and the Karamatsu incident,  
5 the Karamatsu case.

6 MR. HWANG: And by the way, it's been  
7 overturned, an apology by the President and the  
8 Redress Act of 1988, the payments.

9 COMMISSIONER KIRSANOW: I agree with Mr.  
10 Saleh that we need always to be vigilant to protect  
11 civil rights in the context of, even in this context,  
12 in the context of being at war.

13 I would suggest that Homeland Security may  
14 be one of the best ways of protecting civil rights  
15 because as you alluded to, I believe no matter how  
16 many laws we have, how many agencies we have, how many  
17 police officers we have monitoring civil rights, that  
18 if there's another terrorist attack and if it's from a  
19 certain ethnic community or certain ethnicities that  
20 the terrorists are from, you can forget civil rights  
21 in this country. I think we will have a return to  
22 Karamatsu and I think the best way we can thwart that  
23 is to make sure that there is a balance between  
24 protecting civil rights, but also protecting safety at  
25 the same time.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealgross.com

**IX. Adjournment**

1  
2 CHAIRPERSON BERRY: Thank you very much.  
3 We thank you all for coming. We appreciate this and  
4 will somebody move that we adjourn?

5 VICE CHAIRPERSON REYNOSO: So moved.

6 CHAIRPERSON BERRY: Second?

7 COMMISSIONER MEEKS: Second.

8 CHAIRPERSON BERRY: Without objection,  
9 everyone is unanimous we adjourn. Thank you very  
10 much.

11 (Whereupon, at 2:00 p.m., the meeting was  
12 concluded.)

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25