CALIFORNIA STATE ADVISORY COMMITTEE
TO THE
UNITED STATES COMMISSION ON CIVIL RIGHTS
Meeting of May 15, 2002
San Diego, California

Attending (from list provided):
Alejo, Luis
Alston, Gilbert
Aparicio, Mauricio
Burnham, Petrina
Carney, Michael
Flores, William
Franklin, Kevin
Fulkerson, Scott
Gray, Thomas
Hamud, Randell
Hernandez, Fernando
Luevano, Daniel
Maheu, William
Mayer, Frank
Mitchell, Leonard
Nasser, Mohammed
Patterson, Andrea
Spanos-Hawkey, Dena
Turnbull, Effie
Wood, Steven

[Begins on Side 2 (as marked) of Tape I of II.]
After self-introductions, the names of identifiable speakers are shown in full when they can be identified the first time they speak; then by initials, sometimes with [?].
Others or any subsequent unidentifiable speakers = Man, Woman, or ?.
Assuming the man conducting the meeting and calling on speakers is Fernando Hernandez.
***Guesses at words or spelling are shown by* {sounds like}.**

Fernando
Hernandez:. . . introduce yourselves and tell._____ _____ _____

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

Meeting of May 15, 2002

Hilton San Diego Harbor Island

San Diego, California

Welcome and Introductions

Chairperson, Mr. Fernando Hernandez

Invited Presenters

Chief David Bejarano
San Diego Police Department

Petrina Burnham
San Diego Chapter of NAACP

Bryan Enarson
Director, Air and Commercial Development

Scott Fulkerson
San Diego Police Review Board

Randell Hamud
Attorney at Law

Sheriff Bill Kolender
San Diego County

Dr. Roger Lum
Director, San Diego County Health Department

Mohammed Nasser
M.A.S. (Islamic Community Organization)

Ben Weinstein
La Resistencia

State Advisory Agenda

National and Regional Updates

State Advisory Committee Projects

Briefings

San Francisco

Forums

Los Angeles
Sacramento

Evaluations – Court Mandated Consent Decrees

City of Los Angeles
City of Riverside

Sub Committees

Pasadena City College
Huntington Park Police Department

Administrative

Adjourn

Subject: Post-9/11, San Diego Transcript

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Date: Fri, 20 Sep 2002 16:45 EST

From: "Ivy L. Davis" <idavis@usccr.gov>

To: "Grace Hernandez" <ghernandezusccr@netscape.net>, "Phillip Montez" <pmontezusccr@netscape.net>

Cc: "Alfreda E. Greene" <agreene@usccr.gov>, "Les R. Jin" <ljin@usccr.gov>

Phil,
As you know Terri's shop will assist in preparing the summary reports of the CA SAC's post-9/11 deliberations. She has reviewed the hardcopy of the transcript you provided of the meeting. However, before delivering this document to the writer, she asks that you revise by identifying the speaker (when that information is missing) and also correcting the text to more accurately reflect what was said (for example, there are instances when the typist seems unclear as to what was actually said.

DEADLINE: Please forward the revised document by e-mail to Terri with a copy to me by cob Thursday, September 26.
Note: Projected date for first draft of report is October 30. The lenght of report,
approximately five pages.

Thanks.

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Man: My name is Daniel Luevano, and I am from Calabasas, California

Woman: Effie Turnbull and I'm from Los Angeles, California.

Man: Luis Alejo from Sacramento, California.

Man: Kevin Franklin from ____.

Man: Fernando Hernandez, Whittier, California

Man: {sounds like} Phil Montez, from Pasadena, California, and I'm the staff regional director of ____ Information.

Man: Michael Carney. I'm from Glendale, California.

Man: Leonard Mitchell. I'm from Los Angeles, California.

Man: Frank Mayer. I'm from Alhambra, California.

Woman: Dena Spanos-Hawkey. I'm from Clairmont/Claremont, California.

Man: Gilbert Alston. I'm from Pasadena, California, and Phil Montez' houseboy.

[few laughs]

Man: I have a hard time believing that one.

Woman: Andrea Patterson, Sacramento.

Man: Randell Hamud from Montebello, California.

Man: ____ ____ from San Diego, California.

Man: Bill Maheu from San Diego, California.

Man: Scott Fulkerson from San Diego.

Man: Steve Wood from San Diego.

Woman: ____ia ____, Sacramento.

FH: Well, thank you very much. The agenda of this morning was organized in such a way so that we could get all of the advice ____ from San Diego for us first thing in the morning. And then we will have a session later on this afternoon where we'll do State Advisory Committee business -- the planning

of future events and projects. So this morning we have invited a number of people to come before us and give us some of their views, and we also have an opportunity for the State Advisory Committee to have questions.

Phil, we had invited the E.E.O.C. director as well. Is he going to be . . .?

Phil: No, he is not going to be able. He was called to Washington, D.C. We talked to him Monday, wasn't it?

Woman: That's correct.

Phil: And he will be available at the next meeting. The problem is _____ _____ there have been some complaints made concerning the investigation _____ E.E.O.C. _____ _____ _____ _____ that's what you and I talked about it. But that's what he's going to discuss _____ _____ _____.

PH: Okay. Well, then I'd like to move forward and we had invited Chief of Police David Bejarano from the San Diego Police Department to come before us. Unfortunately, the Chief couldn't make it. But in his stead he sent the Assistant Chief Mr. Bill Maheu, and we'd like to welcome the Chief and thank you very much for taking time out of your very busy day to come before the committee and to give us some of your views on the situation post-9/11 in San Diego and maybe some of your views in general on how this has affected the state _____ _____ _____ we'll have some time for follow-up questions from the committee. So, if you'd like . . . .

William Maheu: First, I thank you so much for having me. It's really a pleasure to be here. And on behalf of Chief Dave Bejarano, he sends his apologies. Unfortunately, he's in court this morning and cannot attend. If I can, based on what you were indicating on the front of your statement, I can break this into two areas. One is more the operational areas, which would get into the ~~{sounds like} miz~~ bio chem threat and how we look at that as a community and how our views have changed, some views have changed since 9/11. But probably more important to this commission would be the civil rights concerns and human relations within the organization.

assistant Chief San Diego City Police Dept,

I speak from a very ~~{sounds like}~~ myopic view local level. I don't look very broadly and my concern is the City of San Diego. Although what happens nationally and internationally and throughout the state obviously has direct impact on what happens in the City of San Diego. And my responsibility is specifically to that City of San Diego and its community members.

On the operational side, and I'll kind of save that for later. If you want me to get into that, I can. Let me get into my background a little bit. I've been

with the San Diego Police Department about 22 years. I've worked throughout the city. We are close to 400 square miles that we police and 1.2 million people that we police in a hugely diverse community -- and I'll get into that a little bit more in a moment. My current responsibilities include critical instant management, major events, special events, traffic division. I am the mental health liaison for the Police Department and I deal with a lot of the social services within the community and some various divisions fall in my responsibility.

The topic at hand, on the operational side if I can break it down very simply because it seems to get . . . just confused when people start talking about homeland security and terrorism and those types of concerns three areas that I look at and I think law enforcement should be looking at, and that is on the pre-event, the intelligence, learning about the communities, what is out there, what are the concerns out there. There's the preparation for the people that we're working with and a second area of responsibility. And then the response, as to what's going to happen if some event were to take place in your region. That's the operational side.

On the human relations side, preparation, coordination, and relations that take place within the community that you serve. In order for me to get into that I need to give you a little bit of background with the City of San Diego. As I said, we're tremendously diverse. I have one division, mid-city division, out of our nine divisions that speaks over 30 different languages. And that's what we have to believe. That's just mind from a policing standpoint. And we have been that way for a number of years. Because of that, we've had to work extremely hard at opening doors within communities that have otherwise been difficult for law enforcement to enter.

In the early '80s, if you all have heard the terms community-oriented police ~~and policing~~, in the early '80s community-oriented policing was a big thing and we developed some programs in order to out-reach to the community and learn about those various communities that we have to police. We created the community relations officers. We also began to see an increase in hate crimes or what became identified as hate crimes within the city, probably crimes that had been taking place for a number of years but we started tagging them, if you will, as hate crimes. As a result of that, hate crime working groups began to develop throughout the community and ~~which~~ law enforcement was invited to participate in. The result of that – I'm moving very quickly, going to take it from the '80s all the way through 9/11, but I think it was truly important, especially for this reason, to understand our history. As a result of those committees, hate crime coalitions came about which is a local coalition that was put together based on those committees and needs that we saw as law enforcement and community members and targeted, if you will, community groups or ethnic groups within a community.

In 1998 we received a $100,000 grant from Bureau of Justice to coordinate services of hate crimes and document the level of impact to the community. We realized that the impact of a hate crime which anyone else might just call vandalism, when they looked at it, well, traditionally law enforcement would call it vandalism. The impact of a swastika on a synagogue is much more than vandalism to a huge community, a large community. And so we saw a need to start documenting those types of crimes and reacting to them in support of the communities that we serve.

The hate crime coalition developed hate crime protocols and procedures manuals that were adopted by the entire region, the law enforcement of the entire region. There's 18 various departments that work within the San Diego County region, and unlike some other areas we are truly blessed here in that our law enforcement entities work very closely together. So when we have a regional concern, i.e., hate crimes, it, the procedures manuals and the phone calls that were developed by this coalition and all those chiefs of police and sheriffs bought into those protocols and agreed to follow those protocols and mostly to how that coalition would respond. They also dealt with training, victim assistance in the cases where we had crimes and outreach to various communities.

As an individual department, San Diego Police Department, I spoke earlier of the community relations officers, Chief Jerry Sanders prior to Dave Bejarano saw a need to outreach more towards various ethnic groups within our community and as a result he created community advisory boards. The initial set-up of that, there were several boards --African-American, Latino, Gay and Lesbian, Pan-Asian, Disabled, Mental Health, various boards. About 14 months ago Dave Bejarano saw the need to further outreach to various ethnics groups and included Arab-American and Jewish-American advisory boards. Approx 14 months ago, pre-9/11. And this is why it's so critical for me to give you some of the history because that really set the stage for the way that we responded to the incidents that took place re: 9/11.

The boards are made up of community members and representatives of San Diego P.D. It worked not only independently but also together. So in other words, the African-American board may work independently as an African-American board concentrating on those issues but they will come together on common issues and give us advice as a department. Many of the members of these boards were recently brought in when we did our **{sounds like}** use-of-force task force in the last 18 months, two years we had a task force looking at all the force issues with law enforcement, San Diego Police Department. Went through all our policies and procedures and gave recommendations. Many of the community members that were from the task force were representatives from these various boards. And

gave input as to how we should make changes towards those policies and procedures.

The boards have quarterly meetings, they have direct links to the chief, and the chief has direct links to the communities. They educate the community about the P.D. and the P.D. gets educated about the various cultures we serve. Which is a task for us. And let me give you just a couple of quick examples. Some countries don't have bail. Cambodia doesn't have bail, the concept of bail that we have in this country. So if you go into a small community and you arrest somebody, in the United States you take them out of that Cambodian community and bring them to jail and that individual is then, makes bail, pays the bail, goes back into the community and the community member says, "Wait a minute. You were arrested. What happened?" "Well, I gave the police money and they let me go." What kind of an impression does that leave the community of the police department? They were on the take. So those are issues that we need to deal with and be aware of when we bring these new cultures in, and that's what these boards have done.

So we've got all that in place, 9/11 happens. We've already got the relationships in place with the community members that we're representing. It was a concerted effort between local law enforcement and the community groups to stand up and call for unity and that response is, the police response is that hate crimes, crimes of that nature will not be tolerated and aggressively prosecute those cases that we become aware of. The sheriff, the D.A., the police department _____ _____ made presentations like that on -- we don't have a video screen here, but on September 18 Dave Bejarano put out a public service announcement _____ played on various channels calling for unity, asking that people recognize that ethnic groups are not the criminals and that we should not tolerate any crimes against ethnic groups and doing so, in fact, only perpetuates the concept of terrorism in our community. So those were **{sounds like}** joined / joint statements that were made.

Because of the advisory boards we have direct links into the communities so we become aware of what is taking place, whether it be rallies of different types, we have worked very closely with those community groups. The P.D. representative of those advisory boards, if there were to be a rally in this division, for example, if the Jewish-Americans, the Arab-Americans were going to do some kind of a rally, the captain of this division would be contacted by that representative, make the captain aware of what was taking place and what the real understanding of what was trying to be said at that rally. And if the officers present were to show up, the representative from the P.D., the Police Department's advisory board member, would be there to be able to be liaison if there was any trouble.

So we've had all that open communication since 9/11. Randy's been around and he can speak a little bit as to how well that's worked, but I think it's been really very successful as a model for other cities to look at maybe, as to how well we've functioned as a community with various ethnic groups and able to prevent misinterpretations from taking place and crimes happening.

We did have a **{sounds like}** spike after 9/11, hate crimes in the community. And I've got the numbers here. I don't know if you can see this, but September-October, we went over 50, which was very high for us, 50 hate crimes documented in the community. January 2001 was the lowest we've ever had of hate crimes in the City of San Diego since we've been documenting it, and that's eight years, so. It went up, hit a peak and then quickly came back down. I don't know if you can see this, but the blue line on the top goes from first quarter of 2001 to the first quarter of 2002. You see in January it just drops right **{sounds like}** up / off. So we got the peak right here at September-October of hate crimes, then it quickly went down. There's another line -- you probably can't see it -- but this is where it was headed if we didn't have 9/11. It was going down. A lot of that really I have to attribute to the community that we serve, the open communication and the aggressive prosecution of, even with others outside this room who are familiar with, of minor hate crimes. Nobody's going to tolerate serious hate crimes, but when you get down to the flyers that are put out against an ethnic group that just devastate a community that others outside that ethnic group would not recognize, if you aggressively prosecute those people you only have to do it a couple of times before the message is out.

We have in a case that happened in the last couple of years, the suspect's name is **{sounds like}** Alex / Alice Curtis, and he was putting out hate flyers throughout our community and for years these hate flyers would show up at doors, at malls, people's mailboxes. I mean, they'd just show up all over throughout the region. And, but a couple of officers just got frustrated and said, "I'm sick of responding to these calls. What can we do?" And they went through and they were able to identify some laws, identify the suspect, put together a long-term, 18-month case that identified Alex Curtis as a suspect, ultimately did a successful prosecution in this instance. So putting out pieces of paper with messages on them, hate messages there, not just flyers that somebody is handing you in front of the 7-11. If you do a couple of cases like that that get national renown as well as local concentration, and you can alleviate a lot of your problems. And if you have open communication with the community that you serve.

San Diego has had to because of our region. As I said, we are a diverse community. I have to police just a truly multi-cultural area and have officers that are able to walk into those areas and have the credibility with each of those communities. We're not perfect. We have a long way to go. Training

can always be better. Doors can always be opened. But we've done fairly well since 9/11.

I hope that's what you wanted.

Man: The materials that you brought along? Can we have that material or copies of it?

WM: Sure. Sure.

Man: Chief, how many sworn personnel do you have in the San Diego P.D.?

WM: The Police Department is authorized to have about 2100 sworn officers. We have another 650, 670 support staff and we have over 1,000 volunteers. One of the unique things, again, about San Diego is our volunteer programs. There's three or four that I'll briefly discuss.

One is our retired senior volunteer program. That's the retired seniors you see in uniforms going out and doing various activities within the community --- checking on people who are housebound, things of that nature, vacation house checks, things of that nature. We also have crisis interventionists, which are emotional paramedics, if you will. At critical instances crisis interventionists come out and hold the hands of the victims and the people who are sitting around that otherwise police officers can't really deal with. They are trying to deal with the situation, they push the victim aside. They don't do that anymore. We hand them off to somebody who can explain to them, this is what the officers are doing and this is what **{sounds like}** we'll / will be helping. And also give them the _____ that they would follow on. We have about a hundred volunteer interpreters that speak 30 different languages. And they're just community members that are trained in, as opposed to interpreting, translation so that we don't lost a, straight translation from an officer _____ _____ can _____.

Man: In terms of your organizations, break-down of the organizations, what percentage are minority, female, disabled, etc.?

WM: Our goal is to be representative of the community we serve, you know, I don't have those numbers off the top of my head. I can get that for you _____.

Woman: But would you say in general, I mean if you were looking at a snapshot of the police officers, do they reflect the community? Or are they the majority Anglo?

WM: No. No. They are very close to being a snapshot of the community. There are groups that we are short in. Unfortunately, women in policing is not a

big . . . and we go through ups and downs. Proportionately, we're not high on, right now, on women, women coming into the organization. There are groups that we have trouble bringing in, and those groups are primarily the groups that are new to our country. The various Chinese, Vietnamese that have come into the country. To get someone who is relatively new into the country through the police academy has been a very big challenge for us. So they're probably not representative, although we're outreaching for those _____ _____ to develop _____ doing some _____ing program to try and get them to a point to where they've been doctrinated into the country and want to be police officers. A lot of the new people coming into the country have a real concern about police departments. They don't know what police departments are in the United States, a country that's a free country. They are used to police departments being the crooked side, the down side. So you have to build up, it takes years to build up that trust and credibility to where somebody can, some of those communities even want to consider the thing.

Woman: But you could get us some statistics _____ _____.

WM: Certainly.

Woman: What about your community? What does it look like to give us a snapshot? What's the _____ _____?

WM: It's tremendous. I can tell you, the one division I told you. Let me give you another division. Western Division has . . . which is the division we are just bordering here, has 200 officers in it, roughly. It has very, very wealthy people, has what I call products of the '60s . . .

Man: Careful, it'd be me.

WM: And huge gay and lesbian population and then one region that speaks 11 different languages. And Scott, you can help me out with just the community a little bit, I guess.

Scott Fulkerson: The community of _____ . . .

Man: . . . **{inaudible}** . . .

SF: Yes, I'm Scott Fulkerson with the Civilian Review Board of the City of San Diego. The diversity of San Diego is incredible. I've got those figures in my office and I wish I had them here for you because my board has been concerned about that. But the board feels that the Department is doing an exceptionally good job of making itself resemble the community that it

serves. The percentages are very close in most of the communities to the percentage in the population as a whole. That' the best I can say.

Man: Would you be able to provide those statistics?

SF: Yeah, we can get that for you.

Man: In other words, a community cross-section?

SF: Absolutely.

Man: Probably census data would be best in that regard. And then a breakdown . . .

SF: . . . That is, that's the way . . .

Man: . . . of your officers by division.

SF: That's the way we have it, by the way.

Woman: **{inaudible}** yourself.

SF: Yeah, but we can get that for you.

[few simultaneous comments]

Man: **{inaudible}** _____ _____ police department _____ _____ _____ Sacramento _____ _____ racial profiling _____ _____ _____ on _____ _____ _____ showing that _____ _____ _____ very _____ _____ _____ on minorities _____ _____ vehicle stops, vehicle searches _____ _____ stops and then arrests after the stop also. So I'm wondering if San Diego Police Department _____ similar study and what _____ _____ _____ _____.

Man: San Diego Police Department was the first in the nation to do that on a voluntary basis, to collect data. There's a challenge with collecting data for any organization because the numbers that you are comparing to are census data, which is not necessarily the driving population. _____ _____ as you _____ data on what the driving population is, especially in a regional community as ours, as a border community. We have upwards of 100,000 cars that come across the border every day, which, so comparisons are hard, difficult to do. But we have found is that there are . . . . The concerns that we have found are that the searches that are done, the voluntary searches that are done in the African-American community and the Hispanic community are higher than they are in comparison to the searches done after they stop in the white community. That's really where our biggest

discrepancy has been that we have seen. And we've been doing that for, coming up on three years? _____ _____ three years this December. Collecting that data. We're moving to the next phase of that, which is really, I think what we believe as an organization. So that is great. But the best _____ _____ of collecting that data is that it . . . within the organization opens up the door for communications and conversations like this, I mean having the data. We are moving toward a . . . a ratio of . . . kind of program in which officers are going to have more discussions _____ and discuss issues where it can _____ _____r _____ see where we can find key components and hopefully they change within the organization to prevent any concern that the community has of racial profiling taking place.

Man: **{inaudible}** for example _____ _____ _____ show that African-American _____ _____ _____ _____ _____ after being stopped _____ _____ _____ _____ _____ stop and that _____ _____ _____ _____ter numbers for _____ _____ _____ _____ _____.

Man: Right. I can get you a copy of the report. It's on our Web site. So I'll give you a copy of what we have.

Man: **{inaudible}** _____ _____ _____ _____ _____titution _____ _____ _____ _____ _____stitution _____ _____ _____.

Man: I can get those for you also.

[inaudible comments]

Man: How many did we prosecute _____?

Man: I can . . . . I could look through this real quickly. We have 'em broken down by race, religion, sexual orientation, gender, disability, what types of crimes they were, injuries, whether there was an arrest related to the crimes, the areas within a community . . . _____ _____ _____ but I can get you the prostitution _____.

Man: Mr. Gray.

Thomas Gray: _____ _____ _____ couple of questions. You mentioned that an Alex Curtis was prosecuted for distribution of hate flyers? Do you know what grounds he was prosecuted on? What kind of a sentence? I assume he received a sentence, that it was_____ simple / civil prosecution _____ any sort and whether or not there was _____ _____l. What do you know about that _____ _____?

Man: I'd have to _____ _____ _____. . .

TG: . . . Okay. What knowledge do you have, I know that in San Diego there have been a number of incidents where migrants, migrant workers who live in camps, unofficial camps usually, have been attacked. How are those being handled, especially how are they being handled when the attackers have -- apparently this is fairly common -- are minors groups and are you keeping statistics on that? Is there any kind of special unit that that kind of a case would go to? How are those cases assigned?

WM: I take exception to your "fairly common" statement.

TG: Okay.

WM: But the one case that is predominant was a case that took place in **{sounds like}** Jack s_____ _____ _____ _____ _____ migrant camps _____ _____. We have a migrant liaison that works out of that division _____ there's an officer that goes in and liaisons with the migrant workers in that area. In that case there were eight youths that had gone in and fairly violently attacked the migrant workers. They were prosecuted but that has been held in abeyance as a challenge to Proposition 21. As of yesterday, five of those youths pled no contest to that case and three are still pending trial. We do have hate crimes are investigated by our intelligence unit. Although initially, not all crimes _____. There is a hate crime investigator in each division and once they reach a certain level then they would go to a specialized unit. For example, if you had a homicide, our homicide unit would handle it. But each division has a hate crime, and it's probably with our community you have an expert within each division, of hate crimes, because of the cultures that they are dealing with differ so tremendously within each of our divisions that you need to have a familiarity with the division at least to be the liaison with the community. And even if it goes to the specialized investigative unit --if it's a rape, if it's a . . . something more -- the long-term ongoing investigation _____ _____ _____ started in a division and it got moved over to the _____ _____ unit _____ _____ expertise _____ _____ _____ _____ in that case outside the division.

FH: We'll take a couple more questions and then let the chief go. **{sounds like}** Mr. Hamud?

Randell Hamud[?]: Thank you. Chief, you mentioned earlier that the police department _____ _____ were key to educate members of the department as to the various ethnic groups. What procedures are in place to have those _____?

WM: That's an ongoing mission we've had since the early '80s to familiarize ourselves. We have cultural awareness handbooks that go out that identify the various cultures and ideosyncracies that happen within a culture that

officers are unfamiliar with so that officers become aware of it. This other video is a cultural awareness video on Sikhs in our community. This was done since 9/11 _____ _____ became a concern because the community wanted to make sure the officers were aware of what takes place in that community. This goes out to all the officers and they see it.

RH: Now, is this a procedure that the officer is on his honor to look at these things or is this more of an in-service training program?

WM: These will be shown and this one would be shown at a line-up and all officers would see it at the line-up. Each of these go through the chief's executive committee. We review it and then we send 'em out to the various divisions and the divisions show them at line-up. So it goes to all the officers within the department.

RH: When you say "line-up" is that equivalent to other departments' roll call?

WM: Yes sir. I'm sorry.

RH: That's okay. Thank you.

Man: I'd like to make a comment, and Mohammed Nasser I'm sure will back me up on it. Since September 11 and even before that as chair of the Arab-American Advisory Board to the Police Department, I know that Chief Bejarano and the Department were working very hard to prevent hate crimes before September 11. They have been _____ _____ harder after September 11 and as a community we've been very satisfied with the Department _____ _____an and _____ hard it _____ _____ _____ incidents. And I think in the metropolitan area _____ United States, _____ probably _____ one of the lowest incident _____ hate crime after September 11 even though _____ _____ _____ _____ _____ _____ _____ September 11 _____ _____ favorable. And also there's a book called Profile of _____ Justice that Professor **{sounds like}** Harrisus wrote about racial profiling _____ _____ _____ _____ and instead of saying the police department community policing _____ _____ _____ solution _____ racial profiling _____ _____ _____ etc. do not _____ _____ _____.

Man: Would that be **{sounds like}** Sherrill Harr_____ _____?

Man: No, he's from I think Georgetown _____ East Coast _____ _____.

Woman: Am I hearing you correctly? You're saying _____ _____ _____?

Man: _____ _____ _____

Woman: It does work.

Man: Yeah, it's an effective alternative to the _____ difficult _____ _____ _____ _____. . .

Man: . . . _____ _____st question _____ _____ we have to move on _____.

Man: . . . _____ _____ _____ couple _____ _____. Do your community advisory boards have direct access to your j_____ _____?

Man: In what manner?

Man: Do they have to go through another chain of command in order to access the internal affairs _____ complaints?

Man: Oh no. They can _____arian _____ _____ has been very open in making complaints. I think citizens can, _____ _____ take a complaint in just about any manner that we can _____ _____ _____.

Man: Are you aware of any investigations resulting from direct contact with _____ complaints _____ community _____ advisory boards to _____ internal affairs _____?

Man: I am not. Are you?

SF: I am not. I am not. That wouldn't be a usual route of complaints.

Man: I'm sorry?

SF: That's not a usual route of receiving complaints.

Man: How does that go then? How do _____ _____?

SF: The complaint process is very, very open process. Any citizen of San Diego or anybody in San Diego who feels that, that, that they've, ah, they've been _____ unjustly by a police officer can file a complaint at any, any regional station, at police headquarters. They can do it by phone, they can do it by mail, they can come to the Civilian Review Board and file it there if they don't want to deal with the police so they can file a complaint with us and we'll file it with internal affairs. And my board has based 22 community-based agencies throughout the city also to receive complaints. So the Department has made it as, and the City has made it as easy as possible for anyone to file a complaint against police officers. And we get them through all of those routes.

Man: _____ then you're saying that there's no direct . . .

SF: . . . The, that . . .

Man: . . . relationship between the advisory boards and internal _____.

SF: The advisory boards -- and correct me if I'm wrong, Chief, I believe work directly with the Chief of Police and they're going to be communicating their information directly to the Chief. If there's anything like that comes up, the Chief's going to funnel that to internal affairs. But usually complaints are not going to come from those boards.

Man: I have the chief _____r number and if I have a complaint I call the chief.

FH: Okay. One final question and then we'll _____ _____ . . .

Man: Many years ago when I lived in San Diego the police department was recruited almost exclusively from the military.

Man: M'hm.

Man: Um, even the last number I heard _____rd was 95%. What is that percentage today from the military _____?

Man: You know, I don't know the percentages. I can tell you that when I came on I was a graduate of the University of San Diego and I was the aberration. There was very few people who graduated college coming onto the police department at that time. I interviewed the lieutenants a year ago, 60% of 'em, you know, 80% of them had four year degrees. I had 40% of 'em with advanced degrees. I had three doctors that I interviewed. We've really changed. There's not as many people, and we still look toward the military as one of our recruiting areas but it's not as fruitful, I guess, as it was _____ _____ of employees are going somewhere else. Or they're staying in the military. We reach out to the communities as much as we possibly can. And that's been a struggle too, especially with 209. It creates some challenges. _____ _____.

SF [?]: The last academy class that I spoke to, less than 20%, fewer than 20% of the members of that class were former military. So the number's gone way down.

FH: Thank you very much for coming before the committee _____ _____ commission _____ _____ regards to the chief. And thank you very much. And I'd appreciate it if you could leave whatever materials you brought along _____ _____ _____.

[thank-yous]
[inaudible simultaneous comments]

FH: The next one on the agenda, I don't think she's arrived so _____ I know Mr. Fulkerson is here _____ _____ so how about if we move the agenda and have Mr. Fulkerson to talk a little bit about the San Diego Police Review Board and then _____ any insights you could give us with respect to complaints and the state of the community post-9/11?

Woman: I guess what we've been dancing around is _____ the advisory boards are created? I came from _____ community where a young man was shot dead in the street by two officers in Clairmont / Claremont. We're still dealing with that issue.

Man: M'hm.

Woman: And the city manager chose to give these two an award. So, you know, and they have all these _____ groups, all these advisory boards that are created and people blah, blah, blah back and forth and I don't really see any real progress _____ here. So I guess what we're asking, or what I'm asking, is are these advisory boards, do they have any influence? This gentleman here at the end of the table mentioned that he has a direct pipeline to the Chief. I just want some, um, I just want to know is this window dressing or is this really happening? I mean . . .

Man: Okay.

Woman: . . . are those lines _____ _____ . . .

FH: . . . **{sounds like}** Dena, let's let him make his presentation.

Woman: Okay.

SF: But I appreciate that guidance. Thank you.

FH: And then we'll have time _____.

SF: Good.

FH: Mr. Fulkerson, welcome to the meeting. Thank you very much _____ _____ _____ you have _____ _____.

SF: Certainly. Thank you very much. I appreciate the invitation and I am pleased to be able to be here today to talk about the process of oversight of law enforcement in the City of San Diego.

Much like the situation you describe of someone being shot down in the street, San Diego suffered that same, something very similar to that in, I

think it was 1987. This, however, was a police-involved shooting where a young man was stopped by the police. There was a cover officer involved, and one of the two cars had a civilian ride-along, a female civilian ride-along. Young man was approached by the police officer, a scuffle ensued. He may have disarmed one of the officers. He shot and killed one officer, shot and wounded the other, and shot and wounded the civilian ride-along. The officers were white, the young man who did the shooting was African-American. Went to trial and in his trial his defense was that as an African-American on the streets of San Diego, he was in fear of his life, he feared for his life at the hands of the police. It was a contentious trial. It was a very public trial. As you might imagine, the public was very much involved and concerned with the issue. And at the end of the day he was acquitted. His self-defense defense was accepted by the jury.

The people of San Diego were confused, outraged, angry. This is a city that always had a great deal of support for its police department and yet they were being told now that this _____ _____ race of cowboys and nobody was safe on the street. The voters decided that they wanted some sort of civilian oversight mechanism. There were two different propositions placed on the ballot that year. Proposition F called for a review board with independent investigators. Proposition G called for a review board appointed by the city manager and with complete access to the police department and specifically internal affairs and their investigations. Both of the propositions passed and the courts decided that the one that passed with the largest number of votes would prevail and that was Proposition G and that's what we have.

The citizens review board on police practices in San Diego is an interesting, is an interesting model of civilian oversight of law enforcement. There are many different kinds of models out there. It's generally believed that the most effective model of civilian oversight is an independent board politically appointed with investigators and subpoena power. It is an interesting thing if you look at the history of those boards, however. Most of the boards that are created that way end up wrangling with the police department and the city and they spend a lot of time in court. The strongest of those boards is New York City Police Review Board. They have a budget of $180-some-odd million a year. They have a staff of over 80 attorneys. They do independent investigations. They make recommendations to the commissioner. In a study done last year, they found that over 70%, 75% of the recommendations since the inception of the board that had been passed along to the commissioner had been lost. No one knew where they were, nobody knew what had ever, what, if anything, had been done. The other 25% had all been rejected by the commissioner. So on the surface of things, you can create a board with a great deal of teeth and oft-times what you create is a muscle-bound organization that can't get anything done because you're creating a separate entity to investigate the police

department and we've got 200 years of laws that deal with police departments and these new review boards are not, they're not a fish nor fowl, they don't fit in anyplace and nobody knows how to deal with them. So too often what happens is the board ends up being ignored; whatever kind of power they have, they end up being ignored. In the issue of subpoenas. when the review boards subpoena a police officer, invariably the officer shows up with his attorney and the attorney says, "My client respectfully declines to answer your questions based on . . . .

[END SIDE 2 OF TAPE 1; BEGIN SIDE 1 OF TAPE 1.]

SF: [continuing] . . . _____sion board. The board is that large because of the volume of work that the volunteers have to do. Our volunteers are chosen by a two-tiered community process. We assemble one community team to sift through applications and resumes of people who volunteer for service on the board. They recommend their highest choices to another review panel, which then interviews all of those members and they make their choices and pass that along to the city manager. In all the years of the existence of the board, the city manager has always appointed the people that the citizen groups recommend for appointment. Once people are appointed, they are appointed to the prospective members list. And my friend Mr. Hamud here, is currently on our prospective members list, training to become a member of the board. We found out earlier in the process that you can't take citizens directly and put them on the Review Board because there's a great deal of knowledge that's necessary in order to fairly and adequately judge the investigations of internal affairs. Review Board members have to know an awful lot about policing, about the law, and about the community. So we provide at lease a six month period of training for all of our members before they are appointed to the board, which include academy classes, in-service training, ride-alongs, specific trainings that are put together just for board members. The training issue is one that we feel fortunate about in that over the years the department has agreed with our request to completely open up their training. Any training that's available to a police officer, our members may audit. They can participate in that training, look at that training, and then they're free to make comments about it to the chief and the city manager. So we insist on a well trained board as really necessary.

Once a person is appointed to the board, they become a member of a three person review team. That review team works on specific citizen complaints. When a citizen files a complaint with the City of San Diego against the police officer, the complaint is investigated by the internal affairs office. Once internal affairs feels that they are completed with their investigation, they turn the entire investigative package over to the three person review team. That means all the physical evidence, transcripts of all the interviews, plus the audio or video recordings of all of the interviews.

officers' statements, witness statements; everything that they've done in their investigation goes to the review board.

In the state of California, and I think in most states, it's a condition of employment that a police officer must, when ordered to, answer truthfully questions from internal affairs. They cannot rely on their fifth amendment rights. If they are the subject of an internal investigation, they can be ordered to answer the questions. So what our review board members see is the complete interview with the police officer and the complete interviews with the complainants and the other witnesses.

Now, the review panel looks at that investigative package and they're going to make an initial determination as to whether or not they think that it's a complete investigation and an adequate investigation. As they go through that packet, if all their questions can be answered then they're going to complete their report and they're going to sign off on that investigation and present it to the full board. But if they have any unanswered questions, if they think there are any holes in the investigation, if all of the witnesses have not been interviewed, if the physical evidence seems to be inadequate, then the members sit down with the commanding officer of internal affairs and the investigative sergeant in the case and they list all their questions. At that point, internal affairs must re-open the investigation. And so they go back and reinterview witnesses, they'll ask specific questions of witnesses, they'll find new witnesses if the board has asked them to do that, they'll develop further physical evidence if that's been the request. The case then goes back to the review team. If they're satisfied at that point, they'll complete their report and they'll take it to the board. If not, they'll send it back again. Internal affairs cannot close a case investigation until the civilian review board signs off on it.

Once they're completed, with that process, then the three person review team writes a formal report and brings it to one of the bi-monthly meetings of the full board, presents their findings to the board, and recommends that the board either agree or disagree with the internal affairs finding and they will also recommend comments in the cases of disagreements. They'll also oft-times use comments when they agree with internal affairs findings, and those kind of comments usually run in the vein of, "This officer acted within policy and law, but just because you can do something doesn't mean it's always a good idea." And so the board is constantly making recommendations about policy, recommendations about training.

These recommendations go to the chief of police – they go up the chain of command to the chief of police , so they're looked at by the commanding officers, assistant chiefs, and the chief – and they also go concurrently to the city manager. The city manager, the chair of the board, and one of the assistant chiefs who is responsible for the process and sometimes the chief

sit down and talk about these comments and these recommendations that the board has made. The department is not forced to take the recommendations. But the process is such that if they don't, if they decide against accepting one of the recommendations, then they have to explain to the city manager why they're not accepting that recommendation and the city manager is the final arbiter.

Our current city manager, Michael {sounds like} Yewbaraga, when he, the first time we took a disagreement to him made it very clear to the department and to the review board that he did not want to be the arbiter of disputes between the board and the department. So what he said to all of us concerned is, you people need to sit down and work these things out. You need to come to a conclusion that everybody is happy with. I don't want to be put in a position of either saying no to my appointed civilian review board or no to the chief of police, who I also appointed.

That's kind of a thumbnail description of our process. The board also reviews all in-custody deaths and also reviews all police-involved shootings. And those last two pieces of the work of the board have come about at the request of the department. Proposition G merely says that the review board will review and comment on citizen complaints. But the department itself after working with the board for three or four years was of the I\opinion that the board has been very helpful to them and very helpful to them in their community policing mission and they wanted that input. They want that input from that civilian panel and so they've asked the review board to look at shootings and deaths in custody. And by the way, the review board is the last entity that looks at that. After the police department has finished all their investigations, shooting review board, the district attorney, after all of those people have weighed in with their opinions, it all comes to the review board and the review board reviews that entire package and again makes comments to the chief and to the city manager.

In terms of your question, as are these boards window dressing, I can't really comment on the chief's advisory board because I've never been a member of the chief's advisory board, only as you _____s know worked with them, I do know that the people on those boards feel that they have access to the chief and feel that they're listened to. They make recommendations and those recommendations are taken seriously. As for the civilian review board, however, it's anything but window dressing. Fourteen years ago when the board was first created the board probably averaged about six or seven disagreements per month with the department, and those disagreements then went to the city manager for the city manager to decide. If the board's happy with the city manager's decision on the disagreement, then that ends it. If they're not happy with it, the board is empowered to take their evidence to the grand jury, to the district attorney,

to the state attorney general, or if it's a civil rights issue to the federal attorney general in Washington.

If the board is not satisfied by any of those means, if everyone keeps coming back and agreeing with this position that this group of citizens feel is incorrect, there's nothing to stop them from going to the press. And that's a major safety valve in the process because no city manager, no chief of police wants to see a group of 23 appointed citizens go to the citizenry and say you're not being dealt with properly by your chief of police or by your city manager.

One other comment I want to make about the board is I believe its effectiveness is enhanced by the fact that it's a non-political board. The appointees are not made by the mayor and council. The appointments are made by the city manager and the city manager uses the process which I described. So it's really a hands-off kind of a process. Our board members are all volunteers. They're not remunerated by the city. They get dinner once a month at a six-hour meeting that they have to attend through the dinner hour and if they get, if we're meeting at a city location, the city will take care of their parking. But that's the only way that board members are remunerated. And my volunteers average over 20 hours a month. These are people that work awfully hard on these cases. They take them very, very seriously and they're not carrying anybody's political water. They're not beholden to the police department. It's pretty clear to them what their job is. They're very independent in the comments that they make.

So that's some background on the board. One comment I can make on any changes since 9/11. The National Association for the Civilian Oversight of Law Enforcement met in Denver the first part of October of last year, so just a few weeks after 9/11. The consensus there was --among people involved in civilian oversight of law enforcement around the country -- that for the next year or two it was going to be very difficult for civilian review boards to make any progress because the people of the United States were so proud of and so enamored of their N.Y.P.D. We were seeing police as heroes rather than as people to be feared, and just the general consensus in the public is very, very supportive toward the police department. We've seen that same sort of thing happen here in San Diego. Our number of complaints has actually gone down a bit since 9/11, not significantly but down a bit. And generally what we're seeing is people giving the benefit of the doubt to the police department, until about the last 60 days, when we've had several police-involved shootings. And San Diego is a city that does not like their police shooting people. Doesn't matter how justified or what the reason is, the city rises up whenever there's a police-involved shooting. And we had a situation where we'd gone several months without any shootings and then within a 60 day period we had about six shootings.

People in San Diego become very concerned about this and at that point the review board started hearing a lot of communications from the public, a lot of questions and a lot of complaints. People want to know what's behind these things. And we look at shootings very, very carefully and I think do a good job for the public in reviewing these shootings. However, the laws in the state of California, specifically the Peace Officer Procedural Bill of Rights, makes all of our proceedings confidential because we have access to the complete internal affairs investigation, which becomes part of the personnel file of the officer. And the State of California does not allow public disclosure of anything in an officer's personnel file. We're currently involved in a series of lawsuits with the police union in San Diego because our city manager has decided that he wants to release summaries of the shooting reports of the board. He's releasing one of those in a controversial shooting, and the police union sued. The Superior Court found for the plaintiff and they have enjoined the city manager from releasing civilian review board reports at this point. We're in the process of appeals and the city has said they'll appeal up through the Supreme Court of the State of California. We believe that this is information the public deserves, and it may be that the laws of California preclude that. If that's the case, we're going to have to take another direction to share more information with the public.

That's kind of a general overview of the work that we do, and I'd be really happy to take any questions or comments at this point.

FH: Thank you very much. That was a very nice _____ presentation. A couple of questions. One is do you have a county counterpart _____ _____?

SF: County Law Enforcement Review Board, yes. Oversees the sheriff's department.

FH: Okay. And then the second thing is, the chief, you said the chief talked about their making up _____ to make sure that the police department reflects the composition of the community. How does the city manager select and process those? Is the goal the same?

SF: M'hm..

FH: And how representative are these boards?

SF: Thank you for that question. I missed that in my remarks. The only guidance that I've been given by the city manager as regards appointment to the board is, make that board look like the city that it serves. And we are currently awfully close on all of the percentages. We are, the one place that we have a disparity right now is in the number of women. We should be about 50-50 and we are not. We are about 75% male and 25% female.

But in terms of race and ethnicity, we pretty much match the city. Our percentages are on target or a little bit higher. We're less than 50% Caucasian. We have representation from all of the communities. There are two members of the gay and lesbian community on the board and another person on the prospective members list. So the city manager has said to me, you know, I want you to dig. I want people from every community, every interest group in the city serving on the board.

Man: _____ _____ _____ _____ _____ representation _____ _____ _____?

SF: Union representation is provided through the city attorney's office. Although, since the early days of the board the city has agreed that if the members of the board feel that they are getting conflicting legal advice, if they feel that the city attorney's office has their protect-the-city hat on rather than protect the interests of the civilian review board, that the review board can retain outside counsel. That has been done once many, many years ago. That's only occurred on that one occasion.

FH: No question?

Woman: **{inaudible}**

SF: In the early years of the board, in the first two or three years of the board, that rejection ran about 60%. Over time, that number has gone down. We're in a situation right now where the board is making a couple of recommendations based on disagreements on cases and there's some possibility that one of those recommendations may be rejected. But the last time a recommendation was rejected and it had to be taken to the city manager for arbitration was over six years ago **{sounds like}** at the time. So they're accepting close to 100%, very close to 100% of _____ _____ _____ _____.

FH: _____

Man: Mr. Fulkerson, you mentioned about police-involved shootings and their being handled by you folks and as well as the police department. Are there any other agencies that investigate police-involved shootings and when do they come into the picture?

SF: In San Diego when a police-involved shooting occurs in the city of San Diego, two concurrent investigations by the police department are begun. One is begun by the homicide division, and they're looking at issues of did the officer act within law. The concurrent, and the second concurrent investigation is conducted by internal affairs, and internal affairs is looking at issues of policy. Those two investigations occur simultaneously and they do not communicate with one another. Also simultaneously -- and this gets

to the heart of your question -- the district attorney's office assigns an investigator and the district attorney's office is going to be the final judge as to whether or not the shooting was within law. So what the process looks at is was the shooting within policy. That's the internal investigations, and the external investigation makes a determination as to whether or not the shooting was within the law. Also the's a fourth investigation that goes on when those three are finished, and that's an internal shooting review board, where our ranking officers in the department review the entire package. And they're specifically looking at issues of policy and law. Once all of that is completed, then it comes to the civilian review board.

Man: How soon does the D.A.'s office get involved _____ _____?

SF: The, a D.A.'s investigator **{sounds like}** directly _____ _____ from the district attorney rolls out on the, at the time of the shooting. So they become involved immediately.

Man: Okay.

Man: Mr. Fulkerson, you told us the story about the police shooting, 1987 . . .

SF: M'hm.

Man: . . . police officers were shot plus a ride-along. Was that the _____icate for the police review board's . . .

SF: . . . Yes . . .

Man: . . . _____?

SF: That was the precipitating incident. And . . .

Man: . . . And I wanted to say that in that same decade, actually in the '70s, a young black man who wore dreadlocks walking through La Jolla and he was stopped and arrested. Do you remember that case?

SF: For walking while wearing dreadlocks, yeah. I do recall that.

Man: _____ _____ _____ **{sounds like}** spring / scream forward _____ _____ _____ it was determined that the officer _____ _____ _____?

SF: Correct.

Man: Do you remember that? But that happened . . .

SF: . . . prior to that. The result of that, of that, well, the result of all of this stuff is the first thing that happened was city council created the Citizens Advisory Board. And they really did that as a way of forestalling any kind of civilian oversight. But the voters weren't buying that and they insisted on some type of civilian oversight mechanism. And as I talk to colleagues around the country, I think San Diego has to rank very close to first in the success and the acceptance of the civilian oversight process not just by the community but by the police department. It's an interest-, we can't order the police department to do anything, but they can't ignore us. So it's a, that's the bind that everybody is in. We work cl-, my members work closely with the police department and at the same time there's a created tension between the officers and the board that always exists because the police department knows what their job is and the civilian volunteers know what their job is and they work hard and they put in a lot of hours, and they're not going to work that hard and put in the time they do without being heard and without making the recommendations that they feel need to be made.

Man: I'm curious about something else. You said that the, your members are able to go through complete _____ training.

SF: M'hm.

Man: Does that qualify them to carry weapons?

SF: No. No. Absolutely not.

Man: Or a **{sounds like}** badge?

SF: Absolutely not. No. They're not in that process to be certified as police officers at all, and they don't take those courses for credit. They audit those courses. Plus, we put them through an awful lot of training regularly each year that's done just by the review board, where we bring in representatives from the A.C.L.U., other legal organizations, community organizations. I mean, we want them to hear from all sides. They need to be familiar with police procedure, but they need to know what's on the mind of the public. Sir.

Man: _____ **{sounds like}** intern _____ _____ _____ contact _____ _____ _____ contact _____ police chief _____ _____ _____ function _____. How often . . .

SF: What kind of contact do we have there?

Man: . . . _____ _____ contact the _____ _____ _____.

SF: Periodically, generally two or three times a year. The members of the board will have issues that they will want to talk directly to the chief with and so they'll invite the chief to our meetings. He always accepts. The board each, and then there are some informal kinds of contacts. Whenever, the board will have one or two social kinds of gatherings during the year and the chief always attends those. The interest-, the relationship is, the city manager appoints the chief of police in San Diego and the chief serves at the manager's pleasure. He doesn't have a contract. He is not limited or there is not a particular time frame that he is serving. He serves at the pleasure of the city manager. The city manager appoints, the executive director appoints me and I serve at the pleasure of the city manager. So both of us report to the same guy. And the communication is very much open. I have direct contact with the chief any time I want it. He always returns my calls, but the other way that we have contact is all of my members are given police I.D. cards, which means that they can go into any police facility in the city. When they do their work in internal affairs, internal affairs is housed on the seventh floor of police headquarters, which is the same place where the executive suite is. And so my board members regularly walk into the chief's office to talk with one or more of the assistant chiefs and also the chief, and I do the same thing. If I want to talk with the chief, I usually don't ask for an appointment. I usually just walk into his office and ask his secretary if she can squeeze me in. And if he's in the office, he says **{sounds like}** all / ah, he sees me. So it's a, the relationship is informal and is purposely kept that way 'cause it makes it as smooth as possible.

Man: Mr. Fulker, you said **{sounds like}** a Kiowa _____ a question in the back of my mind here. You don't have to answer it if you don't want to, but it kind of occurs to me, if the police, in general, do you think if the police could do away with the civilian review board, do you think they would?

SF: I think at this point they wouldn't. For instance, the National Association of Civilian Oversight of Law Enforcement, they have meetings yearly. San Diego is always the only city that has a large delegation of police officers. Our internal affairs commanding officer and one or more of his or her detectives always attend, usually an assistant chief attends, Chief Bejarano has attended and has made presentations at NACOLE. And the chief himself always says to these folks, you know, you need to get more of your police officers here and you can use me in that process because I want to tell officers around the country -- and I know he has done this --that civilian oversight has been to the benefit of the department in San Diego.

The other interesting thing is our police union is a member of NACOLE. It's the only police union in the country that belongs to the national oversight group. And they regularly send members to the national conventions. So people are always shocked in San Diego when they see a large number of

people from the review board and then a whole bunch of people from the police department, from the city attorney's office, and also from the police union. So I think civilian oversight in the City of San Diego is very, very well supported and I don't think that the department would try to get away, to do away with civilian oversight if they could at this point.

FH: Well, thank you very much for a very, very interesting presentation.

SF: My pleasure. I have some printed material here for you that I'll leave.

Man: _____ _____ _____

SF: Thank you for having me.

[thank-yous]

FH: Is Petrina Burnham here yet? Oh, okay. [arrangements chat] Would you please identify yourself _____ _____ _____ and then give us a kind of a brief overview, if you wouldn't mind, of the role of the N.A.A.C.P. in San Diego and in particular we're interested in the way that the N.A.A.C.P. sees the San Diego area community post 9/11, _____ been any _____ _____ problems that maybe weren't there before or problems that were there before and were exacerbated by 9/11. And just a general overview of the N.A.A.C.P.'s role in the San Diego community.

Petrina Burnham: Good morning. My name is Petrina Burnham and I'm President of the San Diego Branch of the N.A.A.C.P. In terms of . . . . Thank you for inviting me here this morning. In terms of our role in the community, as you may know, N.A.A.C.P. is the oldest civil rights organization in the United States, founded in the early 1900s and we have a mission of promoting the social, economic, educational, and **{sounds like}** fitipull / critical?? / political?? situation of people of color, and that's totally how we operate in San Diego. We're concerned with issues related to education, relationships with the police department and law enforcement, promoting educational employment and housing opportunities and dealing with discrimination and those issues. We're concerned with the political process and provide information to voters on the different issues that are on the ballot and issues of concern in the community as well as do voter registration. So those are some of the issues that we're concerned about in San Diego.

In terms of effects of 9/11, I haven't really thought about that. You know, off the top of my head, I can't really think of any thing in the community that sort of changed the dynamics changed as result of 9/11. Um, you know, one thing people of color are always concerned with or have prior to 9/11 was the issue of racial profiling. And 9/11 kind of took that to another level

in terms of now people of Arab or Muslim descent perhaps being targeted by law enforcement because of those events. So that's an issue that we're concerned about that no people of color are inappropriately targeted for police investigation or arrest or some other law enforcement activity.

Do you have any particular questions you want to ask me or . . .?

Man: . . . Yeah, I would like to, uh . . .

PB: . . . or were there questions?

Man: . . . begin by asking in general, what would you say in particular the African-American _____ **{someone clears throat}** relationship with the police department is? Prior to 9/11 and today?

PB: I can't really say that it's changed. First thing off the top of my head, I can't really say that it's changed since 9/11. The relationship of the branch, I'll say first, has been that we've been over the years making the effort to work with the police department in terms of establishing communication on issues that we have concern with. I, for example, am on police chief's African-American Advisory Committee and the prior president of the branch was also on that committee. We've also been working with the police department in terms of the racial profiling issue as it relates to traffic stops, and that's an effort that started at least more than two years ago in which we along with other community groups, including like the Urban League, the A.C.L.U. in San Diego, encourage the police department to start collecting data on who they were stopping in traffic stops and that's an effort that we continue to work with the police department on **{sounds like}** serly sort of as a community advisory committee offering suggestions on how that data should be collected and how it should be presented to the community and now we're trying to talk to the police department about what should be done with the results that we're now getting from that study.

So that, that's just a sense of what the N.A.A.C.P. has been doing in terms of working with the police department. Certainly the African-American community as well as other communities of color, we have had their issues with the police department which are not, certainly, which are common throughout the country. We have a history of having felt like we have been subject to unjustified law enforcement activity. We've had some police shootings in town which have raised some concerns and one of the things the police department has done was they did start the use of force task force, which we have been monitoring in terms of some of their recommendations and implementation of some of the results of that task force. And for example, one of the things that's come out of our, come out over the last few years is the use of mo-, the implementation of more non-lethal weapons. And that's, you have police shootings in which the

{sounds like} resident of death has been a big concern to the people of color in San Diego. The **{sounds like}** questions example some of the, some of the relationship between the African-American community and the police department.

Man: Yes.

Woman: **{inaudible}** . . . . African-American . . . .

PB: Frankly, I, um, just became a member of it in the last year and we haven't, we haven't had a lot of meetings and there hasn't been sort of an over-riding issue that has really sparked that advisory committee to be more active? And let me speak a little bit more background. Prior to me joining that committee there was a shooting of a former pro football player named Demetrius **{sounds like}** Defose, and that that really triggered a lot of activity in the community in terms of looking at police practices, at least in the African-American perspective. And since that's kind of passed, there hasn't been another event that's really triggered a lot of activity from that particular _____ _____ort, but I do see it as a chance to meet with the chief and to talk about some of the issues that we do have in terms of hiring, in terms of if there were any particular recent incidents that people have questions about. I think the test will come, from my perspective, as to whether or not another sort of big issue occurs in the community to see what the response will be from the police department in terms of addressing those issues. But I do appreciate the opportunity to meet with the chief several times a year in that context to talk about other things that are going on.

Man: _____ _____ _____ African-American community, do you have a large number of _____ _____ part of that community and if you do, what are their concerns?

PB: Unfortunately, I'm not sure what the population of . . . people of color who also are of the Muslim faith is. Certainly I do know that since 9/11 that community is concerned, at least about possibly targeted by, um, . . . I think almost more other people in the community where there's been some backlash against people of that faith, against other members of the community who have wanted to take their frustrations out on them. And I can't say exactly what level of concern they might have had about law enforcement, having any particular problem with them related to the whole 9/11 event.

Man: _____ _____ _____ people _____ _____

Man: You mentioned the **{sounds like}** Demetreet shooting and that in my opinion is one of the most controversial shootings in the entire country in

the last _____ years. What sort of **{sounds like}** progress has _____ _____n in _____ _____?

PB: Um . . . that as well as other shootings is an example of, you know, there's some frustrations in the community because I think, if my memory serves me, those police officers were found by the district attorney to have been justified in that shooting and that's been basically the outcome of almost all the shootings that have occurred in, you know, I can't, and maybe Chief **{sounds like}** Erickson wants to correct me, but I believe in the last 20 or so years I think maybe one police officer was ever was found to be, um, have a shooting found not to be justified. As a prior speaker spoke, we're not always privy to some of the things that may happen on a personnel level when a police officer may be punished internally. We're not privy to that kind of thing. But the community does see that for the most part the police will be ruled to have had a justified shooting incident in San Diego, from the district attorney's office. And that's what happened in that case. And the community is, _____ that's something I, that's of concern to us.

Man: _____.

Woman: _____ think, just to get an idea, you serve on the advisory board, . . .

PB: M'hm.

Woman: . . . _____ _____ _____ _____, I think 9/11 was a huge catalyst and I'm just curious what your organization has done to collaborate to build coalitions with the, you know, I mean, in our area a Coptic Christian was shot because he looked like an Arab. Um, and the Sikhs are targeted. And the, you know, I think that _____ time _____ group . . .

Man: . . . _____ _____ _____ . . .

Woman: . . . _____ _____ . . .

Man: . . . Coptic Christians are Arab.

Woman: No, he is Arab. But they thought he was a Muslim. I'm sorry, and I should know better. My daughter is Muslim. You know, have there been any kind of . . .?

PB: . . . I guess I was speaking in terms of my contact . . .

Woman: . . . **{simultaneous with PB - unintelligible}** . . .

PB: . . .with the African-American advisory board _____ _____.

Woman: . . . I'm just curious if out of that any thing has grown where we all help each other because that kind of discrimination, hatred, _____ the hate crimes crosses a lot of boundaries and you build strength on numbers, you don't build strength out of individual _____ _____ts **{man clearing his throat}**, you know, _____ can't _____ake _____ ten strong rather than one.

PB: Well, in terms of _____ _____, I can say that we're interested in building coalitions with other groups in the community. I can't say it necessarily is, grew out of 9/11. Right now the issue for my organization in terms of coalitions is the racial privacy initiative? And I think that's, that type of initiative along . . . let's see, that's an example of something that I can see hopefully building some bridges ov-, in connection with. And that's actually one of the things I really wanted to talk about today. I'm not sure to what extent this group is familiar with that initiative but that's one of our . . . it's a really important issue to _____ _____ _____ of this _____ in California. And so I'll just take a moment to talk about that.

It's a proposal to go on the ballot, possibly in November or it could be held over for later depending on what's happening at the **{sounds like}** Secretary's data office / Secretary of State office. But basically there's a group of people in California that are proposing an initiative which would prohibit public agencies from collecting data on race, color, ethnicity, or national origin. It's an initiative being pushed by **{sounds like}** Ward Connolly and the people that he's working with. His organization's called American Civil Rights Coalition, but certainly it has a lot of, or some financial backers that _____ don't necessarily know who they are. We are concerned that if this does make the ballot and is passed that it would have a devastating effect on civil rights **{sounds like}** forcement / enforcement [??] in state of California because we wouldn't have the data to determine extent to which there are problems and we wouldn't have the data to determine to what extent efforts to promote diversity are having an effect in this state. For example, with respect to racial profiling, the police department now in _____a it collects data on the race of people they stop. Well, this initiative would possibly prohibit the police department from doing that. And so some of the backers suggest that this is an initiative that would end racial profiling but our argument is that it actually would have the opposite. This initiative would prohibit us from knowing, for example, how many students of color go to the University of California schools or it would limit some medical research where researchers have to collect information on your race or ethnicity in order to do their studies. You wouldn't know, for example, what the. . . how students were doing in schools in terms of different programs. We wouldn't know, for example, how students of color are doing on standardized tests 'cause we wouldn't have that information. So we have been working to build coalitions with other groups of color to work against this initiative. And that's an example of how we are working with other people.

FH: **{sounds like}** Mr. Gray.

Thomas Gray: Yeah, _____ _____. I actually was going to ask you about voluntary searches, but _____ just ask kind of a follow-up on this idea of this initiative _____ _____. Wouldn't that also end up restricting the ability of let's say medical researchers to gather medical information pertaining to let's say HIV rates in the black community, the Latino community versus the white community?

PB: _____

TG: That would dump all of that kind of research out the window?

PB: That's our interpretation of would be _____ _____ _____ . . .

TG: . . . . Okay. I wanted to ask you about voluntary searches. The chief who spoke previously to you _____ led off here had _____tion, had knowledge that there is a, in his words, "higher rate of voluntary searches," end of his words, in the African-American and the Latino communities. Kind of following up on that, what position does your group take on the concept of the voluntary searches? Do you have any comment on the **{sounds like}** occurrence of seizures or are you aware of what seizures San Diego Police Department or other police agencies here in San Diego County employ? And do you have any suggestions for procedural improvements, in other words, ah, well, I'll explain that after _____ _____.

PB: Um, you know, up, the organization hasn't really taken a position on voluntary searches, and you're talking about in traffic stops?

TG: Yeah.

PB: Okay. Um . . . . you know, every once in awhile people's, people in the community suggest that maybe people of color should be, it should be suggested that they may, they shouldn't consent to searches. When there's a choice to go non-search is gonna con-, occur, they should not give their consent for a search. But one of the concerns is that that potentially could lead to more of a confrontation between a individual and the police officer, that we didn't necessarily, is concern about encouraging people not to consent because you don't want to create that additional tension. But to be totally honest with you, I don't have an official **{sounds like}** N.A.A.C.P. position on consent searches and, or voluntary searches.

TG: Are you familiar with their, with the procedures that, for example, the San Diego Police Department employees _____ _____ _____ _____ have to

stop _____ _____ what the various criteria are _____ which _____ **{sounds like}** can't search _____ _____quest _____._____ search _____ _____.

PB: I have a general understanding that I, you know, I'm not sure like totally, completely understand all the, a lot of situations in which that will arise _____ther. . . .

TG: Okay. Um . . .

PB: . . . I mean, this is something I could get you more information on and talk to you at another point, but I didn't really come prepared to . . . .

TG: . . . Okay. . .

PB: . . . on that particular topic.

TG: Well, yeah. I, when I stepped out of the room after the chief spoke I discussed this matter with him _____ _____ _____ and apparently the current procedure is just left to the officer's discretion. And he did mention that, for example, the California Highway Patrol has a blanket _____osition on initiating any so-called voluntary searches that they just don't do it. He said there are other departments where prior to initiating that kind of a voluntary search a written signed consent form has to be executed.

PB: Okay.

TG: And, and, you know, I'm, I'm thinking that, you know, there are varying levels of racial profiling. The base level is where you make a stop where you're thinking, you know, that guy's driving a ratty old car and he's black or he's Latino, let's pull him over, let's see what's up. Or, he's driving a real nice car, you know, too nice of a car, let's pull him over. And then of course you can escalate to that to all the way to what he's got in that, in that, _____ing in front of that nice car. And I'm kind of looking at this wondering what kind of _____anders you would like to see in place on the initiation of those types of searches. _____ _____ _____ . . .

PB: . . . I don't, yeah, I don't feel like I in this, at this moment could give you that _____ specifically.

FH: **{sounds like}** Mr. Carney?

Michael Carney [?]: Yeah, I'm curious as to what you, how you view the effectiveness of this civilian review board that's in place now with the city and the one with the county.

PB: Um . . . .

MC: Let me ask you this, then, maybe you don't have enough background with respect to that, but what's the general consensus in the, in the African-American community about the effectiveness of the civilian review board?

PB: Um, my, I know that some people wish they had more, I believe it's subpoena po-, a little bit more, I guess subpoena power so they could, um, um . . .. I guess do maybe more extensive investigation? But I guess, I guess, basically what my answer comes down to is that people of color see that, um, police officers are often or almost always ruled to have been justified in **{sounds like}** some of these fatal shootings and they don't necessarily see what the police review board is doing because, as you were saying before, a lot of that information is confidential. So in terms of the community, you know, it's sort of hard to say, you know, exactly how you can evaluate the effectiveness of the civilian review board 'cause you don't _____sie see what they're doing. _____ [someone coughs] see what the final . . . .

Man: Would you say that the undercurrent is that it was just a . . . . a ploy sort of for the police department. Something they're just there for the show only. Is that kind of the feeling that some of the people have about that?

PB: You know, it's, it's, I'm, I'm so-, and I'm sure like I don't feel that I have enough of a sense in the community to say with any certainty what the overall sense is. I can give you a sense of how the community feels about what they've seen in terms of repercussions of police officers and they suffer because of certain things that occur, but I can't say exactly what the feeling is about the civilian review board _____.

Man: _____ _____ aspect of _____ _____ _____ **{unintelligible}**

[END OF SIDE 1 OF TAPE I; BEGIN UNMARKED SIDE OF TAPE II.]

PB: . . . ver to the data collection results. We are pushing for the police department to have more training related to issues of diversity, what racial profiling is, just to . . . numbers from that does show that people of color -- African-Americans, Hispanics -- are stopped by the police a number disproportionate to their percentage in the population and so one of the things that we are pushing for is more training in terms of racial profiling and diversity training in order to help deal with that situation.

FH: Thank you very much, Ms. Burnham,. . .

PB: . . . Thank you. . . .

FH: . . . I appreciate you coming forward and sharing your views with us _____ _____ _____. I'm going to take a 10 minute break, and I have about a quarter to.

{TAPE OFF; ON} ...

FH: Thank you very much. Coming back on time. Next we'll have Mr. Randell Hamud, who is an attorney at law in _____ _____. Could you sit in the middle so you could get closer to the tape recorder there?

Man: Oh, okay. Thank you _____ _____ _____

FH: And then we can see you better. And then, and then after Mr. Hamud, Mr. Flores. You're up next, Mr. Flores.

Man: Thank you.

FH: Okay. Would you introduce yourself and tell us a little bit about yourself and the kind of work that you're doing. I know that you're doing work with both the Islamic community and also communities of color in San Diego and San Diego County, and it's, as you've heard, the committee is looking at things here post-9/11 and some of the issues that you've run into and some of the, maybe some of the more interesting cases that you've handled that have resulted, come out of the 9/11 experience.

Randell Hamud: Well, thank you. I appreciate the opportunity to come before you this morning. I have historically been active in the Arab-American community. I'm past chapter president of the Arab-American Anti-Discrimination chapters in both Los Angeles and San Diego and I'm presently Chair of the Arab-American Advisory Board to the Police Department in San Diego. I've been in that capacity for two years now. And since 9/11 I've found myself in the maelstrom of the aftermath of that terrible day by having represented three young Arab men who were arrested here in San Diego as material witnesses and taken to New York -- **{sounds like -guessing at spelling}** Alsam Awadullah, Amodar Abdullah, and Nuzeed Allsalmi. They were three students who were attending **{sounds like}** Grosmont College and San Diego State University here who happened to have casual acquaintanceship and interaction with the two hijackers identified as having been in San Diego. They arrived in January of 2000. Their names were **{sounds like}** Mr. Ahozmee and Mr. Ahmidar, and it turns out that they apparently were on the plane that struck the Pentagon. They were in San Diego -- Mr. Ahozmee from January or February of 2000 until December of 2000. Mr. Ahmidar left San Diego approximately June or July of 2000. During that period of time they attended the local mosques, they were

young, professing to be students, they interacted with student-age Arab men, which would be common occurrence, or a common occurrence in the local community. When new students **{sounds like}** or / are new or young Muslims come to town from the Middle East -- and these gentlemen were from Saudi Arabia -- they usually by pattern and practice would go to the local mosques where you would find bulletins posted about housing and people would be there to help you out.

Unfortunately, they had a more sinister ultimate plan. While they were in San Diego there was no indication whatsoever that they were planning any terrorist activities, that they were terrorists. Everyone I've spoken to who knew them -- and a lot of people knew them besides my three clients -- stated both of them were very quiet about themselves and did not talk politics. They basically came here in town, and I really believe this, for rest and relaxation. They had a Zoo card and a Sea World card, admission passes, so.

We're not a **{sounds like}** salwer community here in San Diego **{sounds like}** with / the Arabs and Moslems; however, since September 11 we have been basically targeted by the F.B.I. and government enforcement agencies and especially I.N.S. for special treatment. Racial profiling has become the rule rather than the exception.

I think September 11 has had a profound impact not only on my community but on every community of color, beginning with the reaction of the other communities of color. The national security juggernaut and the terrorist war juggernaut scares supporters away in our own community of Moslems and Arabs and in and amongst other groups that we could coordinate our efforts with. I have not received any phone calls from the local chapter of the A.C.L.U. or from any Latino groups or from any African-American groups offering assistance in what we're trying to do. I think people feel that it's their patriotic duty possibly to distance themselves from my community because possibly we might be harboring a terrorist or two. Unfortunately, the result of that is that we do not have the strength of ten or the strength of several sticks bound together into a pole; we are basically a community being bent but not broken by the federal government in its effort to depict Arabs and Moslems as terrorist suspects wherever they are and whoever they may be.

It's a sad time in the history of the country because I think when you get the United States as an official policy thinking ethnically again and circumscribing a particular group or religion for special treatment, negative treatment, I think you tear down 214 years of attempted progress toward equanimity and equality among all peoples in this country. September 11 was a dark day historically for every ethnic group in this country because we are the first victims. This is the same country that interned 110,000

Japanese and Japanese-Americans in 1942 on the West Coast and took I think 40 years to apologize to them for that and still has not learned from that lesson that internment did not shorten World War II by one day. J. Edgar Hoover himself had reported that the Japanese immigrants and Japanese-Americans at that time were not a fifth column threat to the government.

Everything now is on its ear. Any Arab, any Moslem, any mosque is going to be a potential hotbed of terrorist activity; any Arab or Moslem will be perceived a terrorist or terrorist suspect. Whenever the government issues one of these ludicrous terrorist warnings? I think they use it to justify the fact that they want the people to think that they're doing something. They're not doing anything except to stigmatize my folks because when you have a terrorist warning issued everybody turns around and looks around for people who look like me.

Our most vulnerable victims have been women who dress Islamic way and wear the **{sounds like}** hijab or the headdress. The hate crime incidents are reported to you earlier were more manifest after September 11 but also, also on a continuing basis the women who choose to dress Islamically are subjected to ridicule in public places and looks and stares and suspicion, especially after these terrorist warnings are issued. Also Moslem men who are very devout and dress Islamically with the Moslem or Middle East style skull cap and the looser attire or clothing or caftan-like clothing are singled out as suspicious characters as well. This is a not a good time for equality in the United States relative to American Arabs. And immigrant Arabs and Moslems.

The government's behavior towards my community has been egregious in every respect. Continues to be. On April 30 in New York, a very courageous federal judge named **{sounds like}** Shira Shinlin dismissed the indictment of **{sounds like}** Osama Awadullah, who had been accused of perjury before the Grand Jury. The media caught it up as and a dismissal on the grounds of she concluded that the government has misapplied the material witness statute and that it could not be used to arrest a grand jury witness. That was merely one aspect of the decision. She also time after time in the decision found to be not credible F.B.I. agents' sworn testimony in her courtroom, found them to be lying, found them to have physically abused my clients, found my clients to have ben denied their due process and constitutional rights by being suspected to custodial interrogation without proper Miranda warnings or due process rights.

Due process of law has been the first victim of September 11 relative to the government's approach to enforcement of law in this land. Attorney General Ashcroft has said that his job is to get terrorists off the streets. What he's doing is he's just sweeping all the Arabs he can find off the

streets. As you know, after September 11 there's been a number bandied about of 1,200 young Arab men who have been arrested and incarcerated as part of a nationwide dragnet. Don't buy into the number in the sense that they say that of that number there remains about 350 held in custody, secret custody. Secret custody. We don't know their welfare, their state of mind. We don't know if they have lawyers, we don't know who they are. And the number 1200 is fallacious as well because in late October the government announced they would no longer give numbers of arrestees out. If arrestees are going to be held in state or local jails or facilities, they don't show up on the radar screen at all anymore. So I don't really know what the number is. I can't say.

I can say that the pressure is still there. I can say that racial profiling is the word of the day relative to the Justice Department's approach to the investigation after September 11 and I can say because of that their accomplishment to date is that they have not found one terrorist linked to September 11. Not a one. **{sounds like}** Zacharias Missoui, who you all know from the press coverage is been demonized as the 20th hijacker, was arrested on I think it was August 15 or August 17, 2001, and was ensconced in a jail on September 11. Okay? He was not part of the nationwide dragnet, so if you look at the data pertaining to the nationwide dragnet, which is a racial profiling dragnet, it has the same results that most racial profiling stops have had with other minorities in this country. No hits or fewer hits than stops of white persons or persons not of color. And if you read the book -- and I was corrected. It's Professor David Harrison, University of Toledo Law School, Profiles and Injustice --whenever there're racial profiling stops of Latinos or African-Americans exponentially greater than stops of mainstream or white people, the actual hits or arrest data are statistically significantly greater among the whites than among the Latinos or the African-Americans. So racial profiling does not work. It has not worked since September 11 relative to our community, other than to victimize it.

My community is terrorized. It's terrorized because it feels if the members come forward with any evidence or information that might be of help to the investigation, they don't know whether they'll be arrested as a material witness, as were my three clients as I described to you earlier. Those three clients were cooperating with the F.B.I. when they were arrested. They had given them all the information they knew about their interactions with these two hijackers, and they were nonetheless arrested.

Criticisms have been levelled at my community because --quote-- a lot of us didn't come forward voluntarily to approach the F.B.I. and had to be sought out by them. Ridiculous. A lot of us in this room are offspring of immigrants. Many people from the Middle East have come from countries that are oppressive -- **{sounds like}** pay-tee / petty [??] dictatorships, no

due process, the government is not your friend. You don't go knocking on the government's door for any reason and you hope to high heaven that they don't come knocking on your door 'cause you may just disappear. So it's not unusual for any immigrant community, including Arabs and Moslems from the Middle Eastern countries, not to want to come forward with any information about any subject relative to the investigation of September 11 or any other crime. Because they're afraid. They're socialized that that's not what you do. But yet that's the stigma. The F.B.I. considers that to be admission of some possible culpability. It's ridiculous.

One thing that's shocking the most about this when it started, in 1993 the federal agencies obviously had a wake-up call of potential terrorist activities when the World Trade Center bombing occurred or the embassy bombings, the trials in New York. I couldn't believe how ignorant the F.B.I. was about the Islamic religion, about the meaning of the word "jihad," about the Arabic language until I was sitting in on interviews and things after September 11 and was dumbfounded that they were so dumb. And **{sounds like}** sigh_____ _____ began to reinvent the wheel. So if you want to know why September 11 occurred, it occurred because the federal agencies just got caught flat-footed and there shouldn't have been September 11. They should have known better and they should have prevented it.

A lot of our stigmatization these days and a lot of these terrorist warnings and a lot of this business about the detainees I think are simply contrivances and rationales to make these agencies look like they're doing something to protect the American people and they didn't. I don' think they in fact deterred any further terrorist acts after September 11 in this country. I mean, just logically speaking, how many September 11ths do you need to telegraph a message if you're a terrorist? One is more than sufficient. It's a dark day for Arabs and Moslems everywhere because it's an un-Islamic act. The religion does not condone killing of innocents and civilians. It is rejected by mainstream Islam across the world, across the United States, across the Middle East, and yet my religion bears the brand of a religion that kills innocents and I think even Attorney General Ashcroft is quoted as saying that in his religion the Lord sent His son to die for man but in my religion, Islam, the mothers are expected to send their sons to die in jihad. I mean, that's how ignorant that man is and how dangerous he is. Okay? That's an irresponsible statement from the chief law enforcement officer of the land.

Further, with respect to the impact on the community, I worry about the economic viability of my community down the line. I have reports that there are in effect informal but nonetheless boycotts of Arab businesses that have been historically patronized by local communities. And I'm also concerned because the government has announced that they have problems with Arabs or people from the Middle East working in sensitive jobs, not

classified security jobs but sensitive jobs. I have reports that people are being laid off from jobs in the computer industry that, which they might work on sensitive software. For instance, if you're working for a bank in the financial data center and you're an Arab or a Moslem you may not be promoted, you may be laid off first. Okay? Also, the government of the United States a few years ago increased the number of visas for visitors to come in with special skills in the computer arena to work on computers and sciences that we need tech-, we need their expertise. However, Middle East people now are not going to be allowed to come in to work on those jobs anymore and those that are here, I'm afraid, may be singled out for special treatment and layoff and non-renewal of contracts 'cause a lot of them are consulting engineers, and I'm just trying to track down some information on that because they've been hearing some very bad things about it.

As you well know and the recent press coverage is they also have a problem with Middle East people researching and doing research in any avenue of research that might lead to the development of weapons of mass destruction. Well, to me that would eliminate graduate students in the, from the Middle East working in any physics department because if a first or second year physics student can't build you an atomic bomb, then I don't think that person belongs in the physics department. It will also eliminate them from any department of biology or medical school because if a biologist can't grow you a bug, then, you know, that person's in the wrong business. So this is going to have a profound, widespread effect in our community in the foreseeable future and beyond. One of my clients said to me, "Oh, I only wish, I just want my life to be back to normal." It will not be normal again. Not in the foreseeable future.

Vice President Cheney said this non-descript, indefinite war on terrorism may go on for 50 years. Maybe he and his administration and their offspring are planning to be in office for 50 years because they continue to engender support among the voters by scaring everybody about Arabs and Moslems. And, I'm fighting a strong fight. Mohammed Nasser here is fighting the fight. Our community has been terrorized in the sense that people don't want to stand up and be counted or demonstrate because if they do, they're worried their photograph will be taken and there'll be follow-up with the F.B.I. The assaults on the Islamic charities, bona fide Islamic charities, have caused all the contributors to worry that they're on some special watch list, if not worse, and it also **{sounds like}** dries / drives up their willingness to want to contribute to defense funds and to legal fees for people we're representing who are detainees or in the legal process as a result of September 11.

And all of this has befallen our community especially hard here in San Diego but also nationwide. I'm looking forward this weekend to being in

Dearborn, Michigan, where we have the largest concentration of Arabs and Moslems in the country, to see how they've weathered the past many months. I heard some things about repressive things back there. Obviously you've read about 'em. And it's a day where we're trying to, I think a nationwide plan of action or solidarity day and hopefully we as a group can get it together. And I'd like to see other groups come with us and be a participant because in the list I've seen it's mostly just Arab-American, Arab, and Moslem groups that are participating. We're not terrorists. The San Diego Arab Moslem community is not a cell. It's a community. And we welcome all the help we can get because it's been, I think, lacking to date, and, as I'll say again in conclusion, when this country starts to think in terms of color again as a national policy to single out a group for special treatment, you've torn down 214 years of progress and my only question after that is, Which group will be next? Thank you.

FH: Thank you, _____ _____.

Man: You talked about the role of the federal government and the problem _____ see emanating from the way that the federal government has handled the issue vis-a-vis the community. How has, does that differ significantly from how that is being handled locally? Is your, are you finding the same kind of _____? _____ your _____?

RH: Not at the city police. If anything, the police agencies have been very resolute in not, not buying in and subscribing to that. Chief Bejarano says that we don't stop people and ask them about their immigration status. We stop people and talk to them if they're suspects in a crime or of a crime. So they've been fighting very strongly locally against ethnic stops or even participating in the voluntary questioning of ethnically identified Arabs and Moslems as Attorney General Ashcroft asked a few months ago local departments to engage in. So I think that I'm not happy with the F.B.I. obviously and I think they're carrying out the orders of their superiors, and the local law enforcement and people I think are not participating in that is, because they know it's not the way to enforce laws. And it's not the way to catch bad guys. I've got a quote where I say well they're letting, they're chasing all the rabbits but the bears have all, are all getting away, if they haven't already gotten away.

FH: Questions from committee.

Woman: You mentioned that you hadn't really _____ other groups representing other ethnic communities in the San Diego area _____ _____ _____ _____ _____ community. Have you done specific targeted out reach to _____ _____ _____?

RH: That's an interesting question because there's only one of me. And am I supposed to call everybody or is everybody supposed to call me when I'm in trouble? I mean, who throws the life line here? That's my question. Now, maybe Mohammed's had some calls or made some calls. I just, have I tried to call? Yeah, I made a call to the A.C.L.U. early on in September. Did I call any Latino or African-American groups? No, 'cause I didn't know really who to call. I wasn't working in that milieu originally and I was busy defending and in New York a lot of the time. But I think my profile is high enough where people know whom to call. And yet, I haven't got an abundance of calls here. I've gotten zero calls.

Woman: **{inaudible}**

Man: Sure.

Woman: _____ _____ and the reason I'm asking is because in our community we have **{sounds like}** Toomaroo, and they were flooded with phone calls. People just went, stood outside to protect the kids that were in the schools _____ _____ to the **{sounds like}** _____ass / mosque [??]. We worked with the folks. We had never met them. I mean, those gates were always closed to us. The doors were wide open for all of us to go in and help. I mean, a small community just galvanized immediately without anyone having to make any calls. Women were escorted to do their shopping by a variety of women who probably didn't even know that the mosque existed on this corner for a lot of years. So I, I find it hard to believe that no one did call.

Mohammed Nasser [?]: [Man, not at main mic, guessing it is Mohammed Nasser?] _____ _____ _____ _____ from the public standpoint you actually had a lot of people coming to the mosque _____ _____. We have 12 mosques here in San Diego and I'm, I am the chairman for the coalition of all the mosques as well as the president _____. From the public you had a lot of people coming in, lot of people exactly like you said. But when it comes to organizations, and we contacted the N.A.A.C.P. and we contacted . . .

Woman: . . . and you did contact _____?

MN [?]: Yes, absolutely. The A.C.L.U., the _____, the _____zation of terrorism and national security that Randy was talking about, we _____ee _____ut, _____et people just go away and they would not even help us. Even on immigration issues they wouldn't even want to help us in that. So we felt definitely alone. And not only, you know, this is happening to us as a result of 9/11, even from the African-American community, **{sounds like}** Jamey Lemlee, _____ _____ _____ who used to be Reverend J_____, used to _____ _____ **{sounds like}** Black Phantom, when he became Muslim it

seems like he sheds his **{sounds like}** kulluh / color [??] **{sounds like}** would you, and _____ _____ _____ _____ _____. So we feel and the American Muslims really _____ left alone at this time. To fight our fight. And that, I don't think that's fair _____ _____ay _____ _____ _____ _____ _____. We don't have the resources. We don't have the connections. We've been living in the United States for the last hundred years doing nothing but just in trying to make a life for ourselves and now we're put as a, you know, as a **{sounds like}** frun tab / front type [??] of major issue with the United States Government. And we feel _____ _____ _____.

RH: And a lot of us, you know, there weren't, as a community they weren't really socialized to socio-, to **{sounds like}** associotal erinton. There was the Arab-American Anti-Discrimination Committee was the only real nationwide lobby group in the country. In the '80s it came into existence and the Ar-, America-, Arab-American Institute with **{sounds like}** Vim, Jim Zodkey, which you might have seen on the news, came from that. Zodkey came, left A.B.C. to go to A.A.I. But that was basically kind of the first waters of **{sounds like}** an asso-sital action in the country. And then some of the Muslim groups I think followed it up. I think Muslim Public Affairs Council **{sounds like}** wry / ride in care. But it's, you know, lower profile. It's come here assimilate, you know. Be Americans and, and, come and avoid the oppression that they all left behind and all of a sudden here it is visiting **{sounds like}** upon us again.

Man: Mr. **{sounds like}** Uh-ho-juh.

RH [?]: Yes sir.

Man: Was your contact in this matter of the three young men, did you experience very much resistance from the F.B.I. _____n _____rank_____ _____, gain information as to your clients _____ _____er?

RH [?]: Yes, I'm sure. The first few days they denied, they were denying me that my clients were even at the M.C.C. Prison in San Diego, and that's where they were. I was denied admission, ah, let's see . . . three times that first weekend.

Man: Now, did that information _____ _____ _____ort _____ _____?

RH[?]: Yes. Yeah, I testified about that.

Man: Okay. And I assume, I just read a blurb in the Times regarding that particular case and I'm sure from what you said there was a heck of a lot more information that was put forth from there and that the Times was, _____ _____er want to do is to cover up a little bit for the **{sounds like}** police agencies.

What was the judge's reaction _____ when you testified about that prohibition _____ _____?

RH [?]: Oh, she's a very good judge so she's like a good card player. She's not supposed to show any _____. But in her decision she reacted overwhelmingly against it because it's not too often you read a federal judge's decision throwing it out, a federal government indictment. And the decision, time after time, different F.B.I. agent after different F.B.I. agent's testimony she found not to be credible, which means she thinks they're lying. I mean, it's a very, very ser- . . .

Man: . . . And there was a written decision.

RH [?]: A written decision. It's two parts, 120 pages altogether. If anybody wants to read it, my email address is rhamud@san . . .

Man: . . . **{inaudible}** . . .

RH [?]: . . . no. San like San Diego, Sam, Albert, Nancy, s-a-n-dot-r-r-dot-**{sounds like}** ham. I have them to email, I'll email 'em to you.

Man: **{sounds like}** Thank you, _____.

RH [?]: And then I brought with you [[sic]] today seven copies of an article I wrote for California Lawyer Magazine. It was the April issue cover story. And that really memorializes a lot of the odyssey and a lot of the mistreatment of the not only of my clients but of me.

Man: I don't want to **{sounds like}** pass 'em out _____ _____ Mr. Hamud . . .

RH: . . . Yes . . .

Man: . . . I've known Randy most of my life. Because we didn't bring enough. I don't like members to _____ bad _____.

RH: Oh, okay.

Man: So I'm going to make copies and mail 'em to 'em.

RH: Good. 'Cause I didn't know how many to bring so I just . . .

Man: Mr. Hamud?

RH: Yes sir.

Man: You made a comment _____ _____ _____ phrase the comment _____ _____ _____ _____ _____.

RH: Please.

Man: The comment had to do with the _____ _____ of the war on terrorism going on for I think you said 50 years and that wasn't your quote, you were citing some _____ _____ _____.

RH: Vice President Cheney.

Man: Assume that is tr-, that is correct _____ _____ _____ _____ more than one . . . if that's the _____, what do you think the Islamic community _____ _____ prepare to do protect themselves? _____ _____ _____ American _____ _____ _____ _____ _____ _____ perhaps legislation _____ proposed _____ _____ _____ _____.

RH: . . . I would propose legislation forbidding under any circumstances racial profiling as a matter of governmental policy and impliedly or, you know, tacitly or indirectly. I would also think for survival purposes coalitions have to be formed and forged out of very strong steel between all peoples of color and all ethnic and religious groups in order to _____eck the one and the rest. They all have to be united. I would want that to happen. I would want, hopefully, the **{sounds like}** Moslem-American community to learn on a faster learning curve and understand they've got to get out in the streets with placards, they've got to show up and be counted in court and speak out against this if necessary as witnesses. What I didn't say earlier was in several times I'm trying to get witnesses to testify for my clients people don't want to testify because they don't want to be identified in court as a witness and subjected to possible ridicule or special treatment by the government. So we need a proactive approach among our community and between the communities of color in the country because it could be a long hard road and then my view is well, what will be the next war? The war against **{sounds like}** narco-trafficantes, the drug war along the borders? Are we going to have a sealed frontier finally where people are going to be shot if they try to come across from Mexico and from Canada? Where are we going with this, you know. I'm very much concerned about the future relative to all of **{sounds like}** this / us.

Man: Mr. _____ _____ all question _____ _____ _____ _____ what would you think _____ _____ _____ from _____ _____ _____rss and _____ _____ _____ in this?

RH: I'd like to see a little more backbone because in September and October it was nowhere to be seen when I was trying to recruit, you know, help for my clients and others, and it's been a slow process. As the government

_____acted more and more egregiously and came up with no suspects, the bar association and other people realized that in demurring to my requests they were wrong, that this is a fundamental constitutional crisis right now and they need to be more courageous and not think that somehow they're going to directly or indirectly assist a terrorist, whatever that is, planning possible attacks against the United States. We have crimes against or crimes define terrorism. We go across the world and we grab narcotics dealers in other countries and we bring them there and charge them. If you don't think drug dealing is terrorism then you don't know much about the subject, okay? I see no reason why our courts can't try any terrorist that we capture in any forum or venue in the United States here and in the light of day in a due process court of law and convict them of the crime and punish them if, you know, they deserve it. So this short-circuiting of the justice system with a military tribunals at Guantanamo violation of Third Geneva Convention which makes all of our military personnel anywhere in the world if captured subject to the most bestial treatment because now we've broken the mold the Geneva Convention was trying to create, which is everybody may be a prisoner sooner or later so it's, let's at least treat 'em this way. It's a very short-sighted administration that's going to hurt all sorts of communities in the very long term, and unity and coalitions are the only way I think to change the way of the world as it presently is constituted in Washington, D.C. And _____ gonna _____ only protect ourselves with numbers.

Man: **{inaudible}** . . .

RH: . . . Yes.

Man: . . . **{inaudible}** 2000 and 2001 . . . 14 . . . talk about . . . and so _____ wondering how many of those hate crimes _____ _____ targeted _____ _____ _____ also _____ _____ _____ _____ for example hate crimes _____ _____ _____ American _____ _____ _____ _____ _____ _____ _____ . . .

RH: . . . Well, in San Diego I think a Sikh lady was assaulted and we had hate crimes at the mosque **{sounds like}** _____ba _____ker Mosque was defaced, there was an explosive device that went off across the street on the doorstep of the caretaker. So we had identifiable hate crimes directed at our community. We had . . . . My client Modar Abdullah, for example, was driving a woman named **{sounds like}** Amuna to work who was Islamically attired. The reason he was driving her to work on the day he was arrested was she was afraid to drive by herself because on the freeway cars had cut her off, **{sounds like}** weet at her, she'd been receiving obscene gestures from drivers and been spit on. So. So that's why she was in the car with him when he happened to be arrested and she ended up having a panic attack and fainting as she saw all these F.B.I. guns. And

we're talking about a material witness here, by the way, who is not guilty of any crime or suspected of any crime being arrested at gunpoint. So _____ha, yeah, there were hate crimes. There was a number of 'em directed at our community. Fortunately, nobody was killed. I mean, tragically in other venues people were killed. And I really have to say in San Diego I think, and Mohammed I think will agree with me, that we really got off pretty easy on the hate crime side of things. I think law enforcement agencies did a good job in getting the word out that we're not going to tolerate this. And there was one conviction I think **{sounds like}** Akman Noomon, uh, Akmid Numon, he was attacked by a fellow at a party store where my client worked. He was stabbed in the side of the head with a screwdriver, a hate crime, and that person received a six year jail sentence here I think about three months ago, a very harsh sentence and, ah, and well he should have. And I think, and the person was Hispanic. I mean, people have to learn a hate crime's a hate crime, you know. And people of color have to learn, you know, we need to be untied. We don't need to be fighting each other by any _____ _____ _____w. We're all on the same team.

Woman: _____ _____ _____ one that was _____ _____ in San Diego _____.

RH: Is it? Oh. I have to run off _____ . . .

Man: . . . _____ _____ _____ . . .

RH: . . . I have to be in immigration court at one o'clock so thank you so much for . . . .

Man: . . . _____ _____ _____ meeting _____ _____ _____ . . .

RH: Oh, it's a national solidarity day. It's basically thing to come up with like a national or a planning strategy for how to approach the next foreseeable future as to our communities and what we can do to _____. I think _____ interact 'cause, for example, I don't know a lot of what's been going on in Dearborn and they probably don't know a lot about San Diego and we should be really in tune with each other. So we'll have to figure out some ways to do that. And I think one thing we need is like a national clearinghouse for people who are arrested and a national newsletter where we could just say, Dearborn, Michigan, such-and-such happened; San Diego, such-and-such happened; San Gabriel Valley.

Woman: . . . But that's _____, I mean, is that net going to be wide enough to include . . .

RH: . . . _____ the Internet I think _____. . .

Woman: . . . _____ _____?

RH: Anybody. Sure . . .

Woman: . . . _____ _____ my daughter-in-law -- we call her our daughter -- is **{sounds like}** Islam. And she does not wear a _____deechee _____ _____. My concern is is that there, a lot is almost an exclusivity. I mean, the Shiite versus, I mean, we have two mosques within a block of each other. They have never spoken and still probably don't. _____ _____ _____ . . .

RH: . . . _____ _____ we're very, we're a very ecumenical religion but right now a lot of the mosques are being targeted so they _____ _____ . . .

Woman: . . . Right. So, are y-, is that umbrella going to include all ?

RH: Right. 'Cause there are Latino group, La Resistencia is going to be their other groups _____. It's a lot list. Two pages in this case. But I want, you know, we need a nationwide and we need to _____ _____ _____ nationwide because what's happened is that each kind of community is being picked off individually. And that's not what we need. We need _____.

Man: Okay, we'll _____ _____.

FH: Thank you very much for . . .

Man: . . . _____ _____ _____ _____ determined _____, right?

Man: _____

{simultaneous comments - unintelligible}

Man: Listen to Mohammed when he _____.

Man: Not sure of Bill Flores _____ . . .

Man: Thank you.

Man: . . . Sheriff **{sounds like}** Gant couldn't be with us _____ _____. In his stead we have invited William Flores, the Assistant Sheriff with the County of San Diego. And just like Sheriff Flores, if he could, just share with us some of the challenges that you've been facing post-9/11 and in particular would you explore with us a little bit also some of the same issues that the Chief shared with us earlier, issues having to do with racial profiling and

how the County is handling the problems around _____ _____ _____ _____.

William Flores: Let me begin by thanking you for the invitation. [Others speaking in the background over Flores] _____ _____ _____ _____ scheduling conflict _____ make it. And when I was thinking of speaking to today was, has already been touched on by several of the prior speakers but perhaps I can add a few more little tidbits of information that might clarify what the situation is here in San Diego.

A little bit about myself. I currently serve on the management team of the San Diego Regional Hate Crimes Coalition. I've been in that capacity for . . . nine years, maybe a little bit more than that. I also served on the committee to draw up the curriculum for racial, for the instruction on non-bias-based policing or racial profiling as required by law here in California that was legislated and direct-, the legislation directed that the, that post the Police Officers Standard and Training Commission come up with a curriculum for every peace officer in this state to receive training on racial profiling. I was on the committee to draw up that curriculum and am prepared to speak on that a little bit if you'd like.

I know that one of you referred to it earlier in the discussion, about the four hour training and I wanted to make it clear that POST recommends, ah, POST is mandating a minimum of four hours training on this issue and we have drawn up a curriculum on that. It's currently being tested, if you will, and at least two agencies already received the training and we're kind of polishing it, honing it. The two agencies are Long Beach P.D. and the other one is Fresno P.D. Let me also state too that what the assistant chief from the **{sounds like - someone clearing his throat}** San Diego Police Department alluded to in terms of training in San Diego County all law enforcement agencies go to the same academy. It's called the San Diego Regional Law Enforcement Training Institute. Again, all law enforcement agencies send their officers to this training so we all get the same training. At the same time, the training is, receives its overview by an executive committee which is comprised of all the chiefs and the sheriff. It usually is their designees that oversees the curriculum. Use of force issues, those kinds of things, any . . . issues that come about is that, that involves training is reviewed by this executive committee. The executive committee then directs this regional in-, training institute to make whatever changes that the executive committee feels needs to be made in order to resolve the issue.

I also wanted to speak to one of the issues that the young lady from the N.A.A.C.P. mentioned. That's the racial privacy initiative which has a good chance of being on the ballot in November, a big issue for those of us who have been involved in the racial profiling issue. I have a part-time job. My

part-time job is sitting as a, on a board of education. I'm an elected school board member up here in North County, currently serving as the president of that school board. And I don't, she just touched on it but it's a huge issue for education, this racial profiling thing, this racial privacy initiative. Huge issue for educators because we won't, we'll get this passed we will no longer be able to measure the level of service that children receive in the public schools. It's a huge issue. So not only have the law enforcement thing, we also have the educational thing and those of us who have been in law enforcement for awhile know that the best crime-fighting tool we have is education and if we have that, this harness that this initiative will put on _____ it's a big deal.

So I wanted to mention those things and I know you have questions about what are we doing with racial profiling in this state. I might be able to answer a couple of those questions in my capacity as being a part of this curriculum committee. I will begin though by telling a little story about what **{sounds like}** happened on this committee which met for almost two years, just shy of two years, and it started off with about 35 different individuals that made up this committee from all over the state and included peace officers, it included deputy district attorneys. It included civil right attorneys, it included representatives from community-based organizations like the Museum of Tolerance, like the . . . there's an organization in Los Angeles by the name, something of the brotherhood of . . .

Man: Crusade.

Woman: Crusade.

WF: Yes, that's it. The gentleman who's a . . .

Woman: Danny Bakewell.

Woman: Danny Black_____ . . .

Man: . . . _____ Bakewell . . .

Woman: . . . Bakewell . . .

WF: No, I think the guy's name was, the guy's name was John something-or-other. I can't remember the guy's name but we had representation from various community-based organizations throughout the state. It was a large group. Among the group was an officer representing the Los Angeles P.D., the police officers association, I don't remember what the, is it called the Police Protective League up there or something like that?

[chorus - unintelligible]

WF: This individual I recall, this is at the second meeting, and we would have these meetings at different locations up and down the state, which I _____ _____ _____, and at one of our meetings this police officer said that he was representing not the L.A.P.D., he was representing his association 'cause labor was also represented on this committee. One of the things that this gentleman said was that in his 34 years of experience as a police officer he has never seen one incident of racial profiling in his life. [others laugh] that's where we started on this committee.

{simultaneous comments - unintelligible, laughs}

WF: That's where we started on this committee.

Man: **{inaudible}**

WF: Pardon me?

Man: Was that **{sounds like}** _____art weather by any chance?

[laughs]

WF: No, but you're not the first one to ask that.

[laughs]

WF: But that was the starting point, and it was a very long and sometimes painful evolution in order to arrive at the curriculum that we did arrive at, which I, . . . I would encourage your group to look at. We have a video tape that was made. In fact, the actor Edward James Olmos is one of the narrators on this video. We think that, we hope that it's going to make a tremendous impact, that the audience, again, this video tape are peace officers from the state of California. That's who . . .

[END UNMARKED FIRST SIDE OF TAPE II; BEGIN SIDE MARKED SIDE 1.]

WF: . . . those of us of color kind of gave testimony as what our experiences were. I've been a cop now for 28 years, what my experiences. In terms of what I thought to be racial profiling, what I thought to be maybe other acts of discrimination against me, that kind of thing. And there was about maybe, oh, half dozen of us, maybe more, maybe eight or nine of us that gave kind these testimonials as to what our personal experiences were. At the end of that, this same guy, I mean, there were tears welling up in his eyes. It's like he had an epiphany. And he said, you know, maybe I really don't know what I was talking about. That was also the last meeting **{sounds like}** he attended. But I think that we did make some headway

and I, again, I encourage this group to view the training tape that we put together.

_____ in the law, the state of California passed the law -- for those of you who may not be aware -- prohibiting racial profiling? But the way that they, this piece of legislation defines racial profiling is very, very limited. It's, compared to other states, it's really very, very limited. It limits racial profiling to traffic stops and those of us who've been in police work for awhile know that biased-based policing occurs in many different aspects of our job. Traffic stops is one where, that it pops up. But it pops up in a number of different ways.

I'll give you an example. I was involved in a research study where we attempted to measure the relationship between alcohol and drugs and domestic violence cases. We reviewed 923 domestic violence cases over a 365 day period, one year period. What made this study so unique is that the officers who arrived at the scene, we had designed a questionnaire and the officers just using check-off, they're collecting information while they're at the scene of domestic violence, domestic violence cases. We did a pre-test, a survey of the officers before we actually started this study. And among that pre-test survey we asked our officers, all experienced cops, which ethnic group do you think is more likely to engage in domestic violence? Obviously, they answered _____ African-Americans _____. _____ who's the next ethnic group most likely to engage in domestic violence? Well, a _____ose _____ are Latino. And a distant third were the whites. Now again, they went out and they collected this data themselves during this one year period. At the end of that year I released what the study had found and what the study found is that African-American, Latinos, and whites engage in domestic violence at the, proportionately at the same rates. No significant difference. Very little variation. To their surprise.

What about arrests? With that belief that African-Americans engage in domestic violence at a higher rate, would that reflect in the arrest rates? Well, the, I kind of was afraid that it might. Fortunately, it did not. But I suspect that in other jurisdictions . . . because I kind of think that since the **{sounds like}** seup-, at the time you know I was looking at it? And I was a captain of the _____ _____ _____ kind of know I was looking at it so they . . . . I suspect that in other jurisdictions that race is a consideration in terms of making that decision.

We were talk-,somebody mentioned earlier about the guy with the dreadlocks? His name was **{sounds like}** Lawson.

Man: Right.

WF: And that case eventually led to the overturning of the state law, which required, at that time it required a person to produce satisfactory evidence, ah, satisfactory identification upon the demand of a peace officer. And because of that Lawson case that's been ruled unconstitutional. But basically the rationale used in stopping Mr. Lawson was race out of place . . . as a justification, of being compliant with the Fourth Amendment in terms of having reasonable suspicion just to pull someone over, race out of place _____ had been a given reason for the stop _____ _____.

Man: Also _____ _____ _____ four o'clock in the morning _____ _____.

WF: I don't know what his occupation was. He was a young man with dreadlocks and he would go on walks in the middle of the night. The reason I know about this case is because I worked in the jails, _____ part of our assignment, and he would come in all the time. And the _____se would bring him in all the time. He's a, _____ _____ not _____ have to worry too much about his income, by the way.

But . . . so this is kind of one of the issues that we dealt with on the racial profiling committee is to talk about issues where perhaps in the law enforcement community -- and maybe more than the law enforcement community, maybe part of being an American -- are some preconceived notions that we all have to some degree or another about race and criminality. Race and the association of criminality. What our beliefs are. And that was a tough thing for a lot of people to accept. One of the things that we brought to the table in our committee meeting was the 1954 decision Brown vs. Board of Education, where the separate but equal doctrine was finally overturned. Part of the evidence introduced by the attorney, who was Thurgood Marshall, who was representing the opponent. Part of the argument was a study that was done by a group of child psychologists where they interviewed thousands of kindergartners --are you familiar with this? -- and then they did Sally and Jane pictures stuff and how they would ask these kindergartners, five- and six-year-olds, they showed a picture of . . . . did you all learn how to read in the Dick, Sally, and Jane? _____ _____ The white Sally and the black Sally and _____ _____ _____ children? Who was the smart Sally? Always the white Sally. Who was the, ah, who was the bad boy? And it was always _____ _____ the black young man. Who was the, who's the pretty Jane? Always the white Jane.

The point being is that racial attitudes in our country are formed very, very young in life. And we, we as peace officers, we have to come to terms with that. And we have to evaluate . . . in light of the Fourteenth Amendment, that, we had to do some self-evaluation. Why am I stopping this person? Am I stopping this person because of this person's individual acts are suspicious? Or am I stopping this person because . . . it's race out of place. Five black guys standing in front of a bank on Del Mar? Ten o'clock in the

morning? They don't look right. I won't stop 'em, maybe I'll just go up and shake their hand. Did you know that that case that happened in San Diego? That was on CNN, also in Newsweek, Newsweek Magazine.

_____ _____ _____ real quick. A young deputy, white guy, 30 years old, real sharp, sharp kid, does his job well. Driving through downtown Del Mar, very affluent area. Very, very white. As he is driving through this downtown Del Mar he sees this four or five young black men in front of a bank, 10:30 in the morning. These guys are laughing, you know, carrying on . . . _____ing _____, you know, _____ _____ doing whatever they're doing. Deputy drives by and says, Hmm, that's not right. Decided to drive around the block. Comes back. Parks catty-corner to the bank, continues observing them. Doesn't look right. Think I'll get out of the car. He's officer-friendly. Walks up to 'em, says, "Good morning. I'm Deputy So-and-So. How you guys doin' today?" And right away they turn on him. You're stopping us because we're black, and on, and they just started giving him a heck of a time. Later he finds out . . . He asks them for their I.D. and he runs 'em for warrants and all that stuff. He later finds out that they're members of a hip-hop band and they were transferring millions of dollars from one bank to another bank.

Now, did the deputy violate any law? No. This deputy engaged in racial profiling. That's it. That's our challenge in California law enforcement, which I think is the biggest issue facing us today. How do we address the hearts to change them on the inside so that we at least do an analysis and ask ourselves why are we really stopping this person. Is it because of their race? _____ this because of some overt actions as required by the U.S. Constitution. Overt suspicious action, that type _____. Anyway, I wanted to give that brief overview and I'll be glad to answer any questions.

Man: _____

Man: _____

WF: Yes sir.

Man: _____ _____ experience _____ _____ police officer _____ _____ _____. I don't know the answer to this question. Why is it that police officers always want to be the Dirty Harry guy? That's why the guy went around the block himself. Remember Dirty Harry?

WF: M'hm.

Man: Goes in to get the hot dog, _____ _____ . What do we do about changing that attitude and making the peace officer _____ helping the person really _____ _____?

WF: Let me suggest this. I think that, and I think most everybody in this room knows -- that the job of a peace officer is always changing in terms of what society expects of him. _____ at one time we're probably, if we look at the job of a peace officer on a continuum and at one end of the continuum is a soldier, at the other end of the continuum might be a teacher. I think that we're, ah, maybe post-Vietnam we're probably closer to the soldier side and now we're probably moving closer to the teacher side except when things kind of go haywire then we want to come to be a soldier again, take care of that, and then go back to being a teacher. Is kind of what I'm seeing? So now how do we address that? That's a tough question. I don't really have an answer to that except that we're looking at that all the time and trying to come up with _____. This racial profiling thing, this curriculum where we're really going to try to get into the hearts of our officers. It's a tough thing. Because you're trying to have them unlearn what all of us have learned as just part of being American? And _____at's _____ _____thin.

FH: Mr. **{sounds like}** Gray.

TG [?]: Yeah, just out of curiosity, with this young deputy, did anybody _____ _____ point out to him that if these guys had been planning on robbing the bank it was highly unlikely that they would be hanging out in front of it in a group for however many minutes they apparently were? I mean, you know, I can understand _____ giving a second look _____ the first look as he's driving by, but I would think that simply an analysis of the situation would have been one thing if you saw them getting out of a van and just pulled up and was double-parked in a red zone and they throw open the door and they go running into the bank or they're going out of the bank.

WF: M'hm.

TG [?]: And popping into a van. That would be one thing. But standing around, and so I guess I'm just kind of thinking this is, as you're indicating, is an area where it's very clear that there needs to be a focus on training.

WF: Yes.

TG [?]: And, and maybe on **{sounds like}** thinking not just first but maybe second and third, a couple of three times before you _____ _____.

WF: Part of this course points out to officers that, well, we define training. We also define education. Training we define as a skill acquired through repetition. Education is defined as learning through understanding. And I think what we're, the way we're presenting this racial profiling course is that this is not a training course, this is an educational course. We want our officers to understand how it is we got to where we're at today. I mean, you

talk to some of these young officers and the civil rights movement of the '60s, man, that, didn't that happen like right after the Civil War in . . .

Woman: They weren't born yet.

WF: Exactly. It's hard for them to have a historical perspective of how we got to where we're at today. Part of this course goes all the way back to the history of race relations in this country, which includes the Civil Rights Movement and, hopefully they would, they'll get a better understanding of how it is we arrived at this point.

Man: _____ _____ one of the _____ interests me in this whole discussion it is that if it's done outside the department, is there also a chance that wherever officers, white officers are doing outside the department they might also do inside the department. And I ask that question because everyplace I've been where we talked about the community we talked about let's be profiling community _____ end of the day that everybody wants the police force to begin to look, you know, like the community that it serves. And in California increasingly there's almost no community in California where there aren't people of color or _____ _____ of minorities. Within the law enforcement itself if we're going to be recruiting more minorities and more women, it that's our goal, then isn't it also a problem within the department, isn't there also a chance that you have these attitudes about African-Americans, Latinos, women outside in terms of the, just the **{sounds like}** department out . What happens when we do start getting large numbers of minorities joining police departments, large numbers of _____ _____ _____ department? Don't those attitudes also impact inside the police department?

WF: I think that two things happen. First of all, you asked does that impact how, how law _____, the view of law enforcement roles?

Man: **{sounds like}** Yes, _____ _____

WF: There is an impact there. But I also think that there's an impact in just being a cop for a long time, that it, you could come in with a, you know, as open-minded a person and depending on your experiences and how you interpret that experience, your, those attitudes may well change. I mean, you all have heard of the John Wayne Syndrome, now also referred to as the Dirty Harry Syndrome? That happens in the first five years of an officer's career? Depending on where they're working and I think, I would be in denial if I didn't say that law enforcement can affect how, can affect a person's view of the world compared to the world. And that phenomenon happens. So . . .

Man: . . . _____ _____ . . .

WF: . . . how do you combat that? So this is one way. First of all, _____ make this statement too. This is a tremendous leap forward for law enforcement across the country to even recognize that racial profiling is out there because you must, you have to remember that it wasn't so long ago that racial profiling was taught, it was encouraged, if you did it you're a good cop. That's how it was. If you didn't stop that, that black guy driving through your neighborhood, what's the matter with you? That's what law enforcement was like not so long ago. This is a huge step forward for us. And there's many of us I think in law enforcement in California that want to take advantage of this opportunity, this unique window of opportunity, and make this training, this educational opportunity as far-reaching as we can. Part of it is teaching these young people as they come into this profession what it means, what it means to be, what it means to be a person of color in this country. I think it's a national disgrace that citizens of the United States because of their color fear the police. Racial profiling is the antithesis of community-oriented policing. The two cannot go together.

FH: Mr. Camey?

Michael Camey: Mr. Flores, do you find that, given what you just said, that that opportunity is being frustrated -- the **{sounds like}** ends of that opportunity _____ _____ -- being frustrated by what I would refer to as the grizzled veteran, the "Well, we didn't do that in our day. What are you guys doing? We're being pansies handling these guys that way." Do you feel that that kind of resistance is **{sounds like}** stuffing your ability to implement this opportunity?

WF: As difficult as that issue is, and it is an issue, I think the biggest impediment is the political side of this issue. This piece of legislation was introduced by Senator . . . Maori and it, it vaguely resembles what he initially submitted. It's a completely watered-down version of what he originally submitted. And like I say, if you compare our legislation with other states, you'll see that it, it, that Califomia has _____ _____ very, very limited, very, very narrow. And I think that speaks more to our effectiveness. We have to limit it to traffic stops. That's what POST requires. We limit our discussion, or POST is requiring us to talk about traffic stops. In our department, in the San Diego County Sheriff's Department, and actually it's going to be, Chief Maheu may not be aware of it, but all the chiefs in the County as well as the Sheriff have adopted as a model policy a policy which addresses non-bias-based policing, which encompasses every aspect of law enforcement, not just traffic stops which the law, that that's the only thing the law speaks to. Non-bias-based policing _____ _____ must be **{sounds like}** re-dealed.

FH: _____

Man: I have a question about _____ _____sue _____ _____ ration _____ _____ _____ _____ _____ _____ _____ as a result of _____ s_____s _____sumption is that these people **{sounds like}** have guns in their own _____ wallets _____ _____. Question is, is, is . . . _____ say the _____rime policy _____ each police officer should _____ _____ for, is it an option _____ _____ _____ is an officer trained to shoot to kill under certain circumstances, shoot to maim_____ _____ _____.

WF: _____ they, what our officers are taught in our regional academy is shoot to stop. There is an action being committed by a suspect, if you will, that is interpreted by the officers as being life-threatening, engaging in an action that is, that puts the life of another or the officer in jeopardy and he is shoot-, he is trained to shoot to cause that suspect to stop that activity. Therefore, the, in order to do that, the officer is trained to shoot to the ma . . .

?: . . . _____ . . .

WF: . . . the mass of the body. Because that's the biggest target. And that's what we train. And I think most _____ _____ _____.

Man: _____ what is this _____ _____ _____ _____

WF: Most of the agencies in this County use a 40 caliber semi-automatic.

Man: _____ _____ likely _____ shoot _____ _____ _____ _____.

WF: _____ _____ the person is probably going to go down _____. Yes.

Woman: You just _____ _____ _____ shoot to kill, it's shoot to stop.

WF: It's shoot to stop.

Woman: But it's basically the same thing.

Man: Same thing. _____ _____ _____ . . .

Woman: . . . I mean, how _____ has it changed?

WF: No, that's not the same thing. We recognize that it is deadly force. But everybody that's shot doesn't die. And the officer doesn't pull his pistol to cause someone his death. The officer pulls his pistol to cause that person to stop his activity. I don't know how familiar some of you in this room may be with shooting? But most police shootings occur within seven feet and it's at night, and it happens in less than two seconds. So shoot to maim, _____, people will ask me, now I have, the County has our, we have our

own citizens review board and they do have the subpoena power and they're independent. They're appointed by the Board of, what Mr. Fulkerson described as the one with the most teeth? That's what the Sheriff's Department has to deal with and I_____ a lot. I will share a _____ representative on, not, I wasn't on the board but I was kind of representing him when cases would come up? _____ _____ we had questions from time to time, why didn't the deputy just shoot the gun out of his hand or why didn't he just shoot his leg _____. Truth is, is that they're moving and it's night things are happening and . . .

Woman: . . . Well, I just want to say, is the difference _____ _____ink, I mean, I understand that police officers need to be _____ _____ culturally and racially sensitive and give people the benefit of the doubt. But. I'm going to say for the record I don't believe they need to be stupid. I buried my **{sounds like}** cousin because he was raised to believe in all this touchy-feely stuff, he was . . .

[Tape II abruptly off with brief static; blank from about middle of second side (marked side 1) to the end of that side except for unintelligible crowd sounds in last couple of seconds of the side.]