

UNITED STATES COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

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FRIDAY

JANUARY 10, 2003

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ALBUQUERQUE, NEW MEXICO

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The Commission met at the Hyatt Regency Albuquerque, 330 Tijeras, Northwest, Albuquerque, New Mexico, at 8:30 a.m., Mary Frances Berry, Chairperson, presiding.

Present:

Mary Frances Berry, Chairperson  
Cruz Reynoso, Vice Chairperson  
Christopher Edley, Jr., Commissioner  
Elsie M. Meeks, Commissioner

Leslie R. Jin, Staff Director

Present by telephone:

Jennifer C. Braceras, Commissioner  
Peter N. Kirsanow, Commissioner  
Russell G. Redenbaugh, Commissioner  
Abigail Thernstrom, Commissioner

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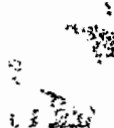
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Staff Present:

Debra Carr, Deputy General Counsel  
 Ivy Davis  
 Terri Dickerson  
 Pamela Dunston  
 Sheldon Fuller  
 Joyce Smith  
 Alex Sun  
 Audrey Wright

2005/11/14 11:13



Staff from Rocky Mountain Regional Office Present:

John Dulles  
 Evelyn Bohor  
 Malee Craft

State Advisory Committee Members Present:

Stanley Agustin, New Mexico SAC  
 Carole A. Barrett, North Dakota SAC  
 Phillip Caldwell, Montana SAC  
 Leo K. Goto, Colorado SAC  
 JoAnne R. Milner, Utah SAC  
 Marc S. Feinstein, South Dakota SAC  
 Marirose Morris, Wyoming SAC

Commissioner Assistants Present:

Kristina Arriaga (via telephone)  
 Laura Batie  
 Patrick Duffy  
 Joy Freeman  
 Melissa Sharp (via telephone)  
 Kimberly Schuld (via telephone)  
 Krishna Toolsie

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1           COMMISSIONER BERRY: The meeting will come to  
2 order. Are the phones working? Good morning. Is that you,  
3 Russell?

4           COMMISSIONER REDENBAUGH: Yes, it is.

5           COMMISSIONER BERRY: Good morning, Commissioner  
6 Kirsanow, Commissioner Thernstrom, Commissioner Braceras.  
7 Did you have your baby?

8           COMMISSIONER BRACERAS: Yes, I did.

9           COMMISSIONER EDLEY: Congratulations.

10          COMMISSIONER BRACERAS: Thank you.

11          COMMISSIONER BERRY: Congratulations. Is it a male  
12 or female?

13          COMMISSIONER BRACERAS: A girl named Gabrielle.

14          COMMISSIONER MEEKS: She's already talking.

15          COMMISSIONER BRACERAS: That's the other one.

16          COMMISSIONER BERRY: That's the other one. Oh,  
17 okay.

18          COMMISSIONER REYNOSO: I thought it was a  
19 precocious baby.

20          COMMISSIONER BERRY: Okay. The first item on the  
21 agenda is the approval of the agenda. Can I get a motion  
22 to approve the agenda?

23                                   **I. Approval of the Agenda**

24          COMMISSIONER REYNOSO: So moved.

25          COMMISSIONER BERRY: Can I get a second?

1 COMMISSIONER EDLEY: Second.

2 COMMISSIONER BERRY: All in favor indicated by  
3 saying aye. Opposed? So ordered.

4 **II. Approval of December 13, 2002 Minutes**

5 COMMISSIONER BERRY: The second item on the agenda  
6 is the approval of the minutes of the December 13, 2002,  
7 meeting. Can I get a motion to approve the minutes? So  
8 moved and seconded.

9 Okay, any discussion, any changes, any --  
10 commissioners? All right. Then we're ready for the  
11 question. All those in favor indicate by saying aye.  
12 Opposed? So ordered.

13 **III. Announcements**

14 COMMISSIONER BERRY: In the announcement realm, of  
15 course, this month, January 20, we have the official  
16 commemoration of the anniversary of Dr. Martin Luther  
17 King, Junior, in which we every year honor the ideals  
18 that Reverend Dr. Martin Luther King, Junior, fought for.

19 On January 1st, of course, we commemorated the  
20 issuance of the Emancipation Proclamation, which ended  
21 slavery in some places, although slavery was, of course,  
22 abolished by the 13th amendment.

23 In December since we last met, the State of New  
24 York passed a law extending civil rights protections to  
25 people without regard to sexual orientation in that

1 state, and supporters of the bill say that this is very  
2 important in the areas of housing, employment, credit,  
3 public accommodation. It's the 13th state to have such a  
4 civil rights law.

5 January 21st is the anniversary of Lau v. Nichols,  
6 which has stimulated all kinds of responses in the areas  
7 of trying to meet the needs of language-disabled or  
8 children with limited English proficiency.

9 On January 31, after we meet and before the next  
10 time, there will be a report on Title IX on athletic  
11 programs due to the Department of Education. Title IX, as  
12 you know, has been very important in the area of gender  
13 equity.

14 January 13 marks the 100th anniversary of the  
15 first organized group of Korean immigrants to come to the  
16 United States in large numbers. Today there are more than  
17 5.6 million people of Korean descent outside of Korea,  
18 with many of them -- the United States is first in the  
19 numbers who have immigrated and live in this country.

20 It was reported finally in the paper, and I have  
21 now read the report on-line, that the State of Maryland  
22 has a death penalty disparity study which is a  
23 comprehensive one that they have issued on this important  
24 subject of whether there is discrimination in the death  
25 penalty.

1           These are all of the things that I wanted to point  
2 out. Are there any announcements that commissioners would  
3 like to make?

4           COMMISSIONER REDENBAUGH: Yes. I'd like to  
5 introduce to the Commission my new special assistant,  
6 Melissa Sharp, who has recently joined us and will be  
7 working primarily from Philadelphia.

8           COMMISSIONER BERRY: All right. Welcome to you.  
9 Anyone else? Yes, Commissioner Edley.

10          COMMISSIONER EDLEY: Well, I have also read the  
11 reports of the Maryland death penalty study, and some  
12 portions of the report itself, and it seems to be an  
13 excellent piece of work.

14          I'm wondering whether it wouldn't be appropriate  
15 for you to send some sort of a note to the, I guess,  
16 governor-elect, lieutenant governor-elect in Maryland,  
17 urging them to study it carefully, as they make their  
18 decisions in their new administration, about  
19 administration of the death penalty there.

20          COMMISSIONER BERRY: I think that that is an  
21 excellent idea. I don't think anybody can be opposed to  
22 someone reading something and studying it, or at least  
23 encouraging them to read something and study it. And it's  
24 a very interesting report, seems very comprehensive. And  
25 so whatever the governor-elect decides to do -- is he

1 still governor-elect, or is he now governor? I think he  
2 was sworn in in the state of Maryland. Yes, they had a  
3 swearing in. He's already the governor in Maryland.

4 COMMISSIONER EDLEY: And maybe if the staff could  
5 make copies of that report available to the rest of the  
6 commissioners who may not have seen it yet.

7 COMMISSIONER BERRY: Okay.

8 COMMISSIONER EDLEY: It's good reading.

9 COMMISSIONER BERRY: All right. That's a good idea.  
10 I'll do that.

11 Does anyone else have any announcements or  
12 suggestions?

13 We now go to the staff director's report. Does  
14 anyone have any questions or suggestions on the staff  
15 director's report?

#### 16 IV. Staff Director's Report

17 COMMISSIONER THERNSTROM: Well, can we hear the  
18 report first? I mean, I have something I want to comment  
19 on, but I'd be delighted to wait.

20 COMMISSIONER BERRY: That was Commissioner  
21 Thernstrom.

22 COMMISSIONER THERNSTROM: Yes, I'm sorry, I should  
23 have said that.

24 COMMISSIONER BERRY: And you would like to ask now,  
25 or you would like to --



1 COMMISSIONER THERNSTROM: I can wait. At some point  
2 during the staff director's report, I have a question.

3 COMMISSIONER BERRY: All right. The staff director  
4 is not inclined to actually say anything. It's just we  
5 were talking about the report as it is written, and  
6 whether anybody had any questions about it or anything  
7 they wanted to ask the staff director.

8 COMMISSIONER THERNSTROM: Well, if you would permit  
9 me, I do have one comment.

10 I very much appreciate the clipping service that  
11 the Commission has and all the good clippings that we  
12 get. I know it takes a lot of work. I was slightly  
13 puzzled by two things. One, my op-ed, which was the  
14 leading op-ed in the New York Times on Senator Lott, was  
15 not included in the clippings. And two, I would have very  
16 much liked a copy, and I guess this wasn't --  
17 (unintelligible) -- but nevertheless I would have liked  
18 it, a copy of your statement, Madam Chairman, on Senator  
19 Lott. I never saw it, and so, you know, both things. I'm  
20 mystified by why the New York Times op-ed that I wrote  
21 was omitted, and I would have loved to have seen what you  
22 said.

23 COMMISSIONER BERRY: Staff director, do you know --  
24 and Terri Dickerson is raising her hand, who is now  
25 supervising the public affairs office. Staff director, do

1 you want to answer?

2 STAFF DIRECTOR JIN: Commissioner Thernstrom, I was  
3 going to say that like Mary said, Terri Dickerson is  
4 supervising the Public Affairs Unit right now, and I  
5 think she would probably be the best person to address  
6 that question. And the only thing I was going to add was  
7 that if we don't know offhand, we'll find out for you.

8 COMMISSIONER THERNSTROM: Thank you very much.

9 STAFF DIRECTOR JIN: Commissioner, Terri's at the  
10 mike, so let me give her a chance to try to answer it.

11 MS. DICKERSON: Okay. I do have an explanation for  
12 that, and I'm sorry that it happened. You may have  
13 noticed that we have gone to an electronic search instead  
14 of going through the paper by hand in most cases, and the  
15 electronic search really doesn't go through the op-ed  
16 pieces as much as we would if we were going through it as  
17 a staff.

18 So sometimes we know of those things and we can  
19 make a special effort to -- we will make a special effort  
20 to find them. So I'm sorry it was inadvertently omitted,  
21 but you know, in the future this really helps, because we  
22 can -- since we just started the electronic search, we  
23 can put some things in place that will help us to not  
24 miss those things in the future. So I do apologize that  
25 we missed it.

1           COMMISSIONER THERNSTROM: Well, maybe you could  
2 remedy that at this point. It was on Lexis, it's on the  
3 New York Times.com, you did have a zillion op-eds or  
4 other columns, and so forth, and news reports on Senator  
5 Lott. So this was a really glaring omission, and it's not  
6 too late.

7           And in addition, I would very much like to see as  
8 a statement of the chairman on Senator Lott.

9           MS. DICKERSON: We certainly can distribute those,  
10 now that we are aware of them, and I'm sorry.

11           COMMISSIONER BERRY: Just so I understand, are you  
12 saying, Terri, that the service that you use now doesn't  
13 pick up op-eds, but now that you have been alerted to  
14 this, you will modify it so that you can make sure you do  
15 that?

16           MS. DICKERSON: Yes, it does. I'll have to really  
17 look at that article to see why it wouldn't have picked  
18 it up.

19           COMMISSIONER BERRY: It should have picked up on  
20 Commissioner Thornstrom's name. If it didn't say  
21 something specific about the Commission or civil rights,  
22 it should have been drawn on her name. What did it say on  
23 the byline?

24           COMMISSIONER THERNSTROM: It did identify me as a  
25 member of the Commission of Civil Rights, and if I

1 remember correctly -- I don't have it in front of me,  
2 since I'm in a hotel in Washington -- but I believe that  
3 the heading had the words "civil rights" in it, as well.  
4 I could misremember that.

5 COMMISSIONER BERRY: Okay.

6 MS. DICKERSON: I'll just have to look into why it  
7 wasn't drawn that day.

8 COMMISSIONER BERRY: And you will modify it and you  
9 will send the commissioners a copy of the op-ed piece and  
10 the statement which -- did you put the statement on the  
11 web site, or what did you do?

12 STAFF DIRECTOR JIN: The statement is on the web.  
13 You were talking about the Commission statement? That's  
14 on the web site.

15 COMMISSIONER BERRY: But you can send that to us.

16 STAFF DIRECTOR JIN: Yes.

17 COMMISSIONER THERNSTROM: Thank you very much.

18 COMMISSIONER BERRY: Does anyone else have any  
19 other questions that would be to the staff director on  
20 items listed under the staff director's report?

21 Hearing none, we would like to move to the next  
22 item, which is the State Advisory Committee appointments  
23 for Connecticut. Could I get a motion to approve those,  
24 please?

25 **V. State Advisory Appointments for Connecticut**

1 COMMISSIONER EDLEY: So moved.

2 COMMISSIONER BERRY: Could I get a second?

3 COMMISSIONER MEEKS: Second.

4 COMMISSIONER BERRY: Any discussion? All right. All  
5 those in favor indicate by saying aye. Opposed? So  
6 ordered.

7 **VI. Program Planning**

8 COMMISSIONER BERRY: The next item is program  
9 planning. And the staff director wants to say two or  
10 three words by way of introduction. Go ahead.

11 STAFF DIRECTOR JIN: Thank you, Madam Chair. The  
12 Commission knows program planning or project planning is  
13 something the Commission undergoes on an annual basis.  
14 Often it is conducted in January, but it may be a little  
15 bit sooner, or a little later.

16 This year, as the commissioners discussed last  
17 month, we are conducting program planning over a two-  
18 month period. Thus we will continue and finish this  
19 process next month.

20 I think the program planning memo we provided the  
21 commissioners last week is fairly self-explanatory, but I  
22 would like to highlight several points before the  
23 discussion begins.

24 First is that we like to think that we've given  
25 you a number of good proposals to consider, but of

1 course, it's up to the commissioners to decide whether it  
2 should adopt any or all of the proposals and whether any  
3 of them should be modified.

4 Second is that, of course, we need to have at  
5 least one statutory report per year. I think a number of  
6 the OCRE projects meet the requirements of a statutory  
7 report and Terri Dickerson, OCRE chief, will be happy to  
8 discuss those with you in more detail.

9 Third, we probably should select no more than four  
10 projects, two from each office. This allows the staff to  
11 address emerging issues which arise, as well as other  
12 duties which those offices have.

13 What I do want to note at this point is that one  
14 of the things we noted for fiscal year 2003 and 2004 is  
15 the project called funding of federal civil rights  
16 agencies. We don't have that listed as a 2005 project,  
17 but nevertheless, that will be done because the  
18 commissioners have previously indicated that the staff  
19 ought to do that, updating it, on an annual basis.

20 Next, while this year's project planning is for  
21 fiscal year 2005, it also provides an opportunity to  
22 adjust a current lineup for fiscal year 2003 and 2004,  
23 although the commissioners do need to remember that a  
24 number of the 2003 projects are already underway.

25 And finally, I need to apologize for something,

1 eliminate some confusion. On page 11 of our memo, which  
2 is OCRE project number 2, I think it seems to suggest  
3 that we're asking the Commission if it endorses that  
4 project, endorse a briefing, which is not the case,  
5 because briefings are things that are done without formal  
6 Commission approval.

7 All we're asking there is if the Commission  
8 decides to go with that project, that it endorse the  
9 concept and, of course, OCRE will use research  
10 investigations, whatever mechanism is necessary in order  
11 to make sure that the project is well done.

12 I'd be happy to answer questions and I know Terri,  
13 as well as Deputy General Counsel Debra Carr, would be  
14 happy to address in more detail any questions you might  
15 have also. Thank you.

16 COMMISSIONER BERRY: And Commissioner Meeks I want  
17 to recognize.

18 COMMISSIONER MEEKS: Actually, I mentioned this  
19 before. When we talked about doing an Indian project  
20 beginning, well, 2003 or 2004, beginning 2003, first we  
21 talked about doing a project on administration of  
22 justice.

23 You know, I feel like in some ways this has been  
24 through the forum that we had in South Dakota and some of  
25 the studies that have come out since then, and some

1 proposed studies, that that issue -- and I'm on the U.S.  
2 Sentencing Commission that is doing studies of federal  
3 sentencing as it applies to Native Americans.

4 And so after meeting with leaders from the  
5 National Congress of American Indians and talking to  
6 tribal members across the country, the one issue that  
7 just keeps coming up and that NCAI really focused on as a  
8 serious issue is Indian Health Service. And so, you know,  
9 that's the project that I would really like to focus on.  
10 If we're going to do one thing that's, I think,  
11 meaningful and that we can shed some light on, it would  
12 be that.

13 COMMISSIONER BERRY: And the status of play on that  
14 is -- the state of play is that the Commission approved  
15 the project with the understanding that the particular  
16 topic was subject to change and review after you  
17 consulted it. We talked about it a little bit and thought  
18 about it, and the staff heard what you had to say about  
19 it.

20 So I understand that the staff has discussed this  
21 and that health care, Indian Health Service, everybody,  
22 there's consensus that that is really where it ought to  
23 be targeted; is that right?

24 STAFF DIRECTOR JIN: Yes, Madam Chair. The  
25 Commissioners might remember that when they approved the



1 project, they asked Commissioner Meeks and me to work  
2 together to make sure the project is a good project.  
3 We've done that, and we continue to do that, and I think  
4 that's something we can do. We'll probably be able to get  
5 started on it later this year, but certainly in a 2004  
6 project.

7 COMMISSIONER BERRY: Now, are there other remarks  
8 or comments on the 2003 fiscal year, just looking at what  
9 is already there, before we talk about 2004?

10 Okay. Now, under 2004, there are various things  
11 listed. The one on the administration civil rights  
12 record, as I recall, we had agreed -- isn't it right,  
13 staff director -- that we would keep doing these?

14 STAFF DIRECTOR JIN: Yes, Madam Chair. Originally,  
15 I believe the decision to evaluate the Clinton  
16 administration was made probably in the summer of 2000,  
17 and it is a good idea to evaluate every administration  
18 after a four-year period. And the Commissioners at some  
19 point subsequent to that indicated that this was  
20 something that probably would be a good idea to do for  
21 every administration every four years. So it was also  
22 discussed at the last project planning meeting.

23 COMMISSIONER BERRY: And the civil rights funding  
24 again is something we do every year.

25 STAFF DIRECTOR JIN: That's right.

1           COMMISSIONER BERRY: So that the only other thing  
2 under 2004 is the statutory report for OCRE, the ten-year  
3 checkup that they're working on; is that right?

4           STAFF DIRECTOR JIN: Yes, Madam Chair. And if I may  
5 just editorialize just for a second, Terri Dickerson and  
6 I have had some fairly frequent conversations on how this  
7 project is going, because the Commissioners remember we  
8 finished one component of it this last year. We're  
9 working on a second component, and this seems to be  
10 having a very good effect. Not only were we able to cover  
11 all the different agencies, but I think, again, every  
12 agency is a little different. Some agencies are more  
13 cooperative than others, but I think that we've developed  
14 a good working relationship with many of these agencies  
15 and at least indirectly it's allowed us to perform some  
16 of our monitoring functions which, years ago, we lost the  
17 ability to do because of staffing levels. So interaction  
18 with each of agencies in many respects I think is paying  
19 very quick dividends.

20           COMMISSIONER BERRY: Okay. Yes. Commissioner Edley.

21           COMMISSIONER EDLEY: I guess I want to make three  
22 quick points, and it relates to 2004, but also perhaps  
23 some to 2003.

24           The first is, I guess I want to register a general  
25 concern or suggestion that we try to inform the agenda at

1 least in part by a sense of what major subjects are going  
2 to be on the legislative agenda for the Congress in  
3 coming years -- and perhaps the staff thinks about it in  
4 what they prepared -- so it's not really communicated  
5 here except as regards, I think, the empowerment zones  
6 proposal later on.

7 But I feel that especially since we have limited  
8 resources, there's an opportunity, I think, for the  
9 Commission to really do a great service for federal  
10 policymakers if we can anticipate the major issues that  
11 are going to be on their plate because of the legislative  
12 agenda, and try to get our work done in time to be useful  
13 to them as they adopt or as they consider new  
14 legislation.

15 An example of that is the higher education work  
16 that Congress is going to be engaged in over the next 15  
17 months or so. And ideally, to the extent that we had  
18 ideas in the higher education arena, then we could inject  
19 into that process that Congress could make use of our  
20 work in a very immediate and direct way.

21 I think I mentioned last time the reauthorization  
22 of the surface transportation statute, so-called T21,  
23 which I guess people are nicknaming T22. I mean, that's a  
24 four or five hundred billion dollar statute that will  
25 touch on some civil rights issues. It's too late, I

1 think, for the Commission to weigh in on that, but it's  
2 the sort of thing that had we had it in our sights 18  
3 months ago, we might be in a position now to be making  
4 recommendations to Congress for how to ensure that  
5 considerations of equity are adequately reflected in that  
6 major piece of legislation. So that's point number one,  
7 just a general admonition.

8 Point number two. I think that on the higher  
9 education, specifically the proposal in 2004 talks about  
10 financial aid in higher education. And my sense of these  
11 issues, having done a bunch of thinking about it, quite a  
12 bit of thinking about it of late is that this may not be  
13 the most helpful way to frame our work. While there are  
14 important developments with respect to financial aid,  
15 including a widening affordability gap that has a  
16 particular implications for minority populations because  
17 of differences in wealth as well as, of course, the  
18 disproportionate incidence of poverty, there are other  
19 emerging issues in higher education where our  
20 contribution -- where we might have a little bit more  
21 value added.

22 The specific one that comes to mind is a pattern  
23 that seems to be developing in public higher education of  
24 almost a de facto dual system in which second-tier  
25 institutions, including community colleges, but also the

1 less well-resourced four-year institutions, are becoming,  
2 if not overwhelmingly, I'd say very, very  
3 disproportionately of minority in terms of their student  
4 populations.

5 When you combine the demographic trends with the  
6 fiscal pressures that many states are facing in  
7 education, this trend towards a two-tiered color cast in  
8 higher education, at least in my mind, looms large as an  
9 incredibly important issue for the coming decade with  
10 respect to higher education opportunity.

11 So without gainsaying the importance of looking at  
12 affordability issues generally, I think there are some  
13 other higher-education-related issues that we ought to  
14 take a look at. It might be useful, Madam Chair, if we  
15 did some kind of a briefing on higher education issues  
16 from a number of folks about the kinds of civil rights  
17 issues that have emerged on the higher education front,  
18 and use that briefing as a way to reshape or refine the  
19 specific proposal for higher education that would be  
20 pursued by OCRE and OGC in fiscal year 2004.

21 Finally, the third thing I want to suggest is that  
22 on the U.S. Patriot Act, which is mentioned in 2003 and  
23 then again in 2004, I think it's very important, the  
24 continuing monitoring work that the staff is doing. I do,  
25 however, want to both frame a caution that I don't

1 necessarily -- I guess I don't think that issues of, for  
2 example, the Freedom of Information Act, as important as  
3 it is from a civil liberties perspective, is as close to  
4 the core of this Commission's mission as, for example,  
5 issues of racial profiling, issues of alleged  
6 discrimination based on national origin, issues of  
7 allegations of religious discrimination.

8 So I would just urge, first of all, that our work  
9 be as close to the core of our civil rights mission as  
10 possible on this, and secondly, that our work might  
11 profit from focusing on this kind of meta-watchdog role  
12 of examining what the inspectors general are doing in the  
13 various agencies of the FBI and the Department of  
14 Homeland Security, et cetera, and making a judgment --  
15 this is a concrete proposal -- making a judgment about  
16 whether the internal civil rights safeguards are  
17 functioning effectively in this highly politically  
18 charged context of homeland security.

19 Or to put it differently, what can we as a Civil  
20 Rights Commission say by way of assurance to the public  
21 as to whether or not the watchdogs are awake and doing  
22 their job of insuring, day in and day out, that the  
23 various intelligence and law enforcement authorities are  
24 observing legitimate civil rights practices? That's it.

25 COMMISSIONER THERNSTROM: Can I respond?

1           COMMISSIONER BERRY: Yes, just a moment, Abigail.  
2 I'll recognize you in just a moment. Cruz had his hand up  
3 first.

4           COMMISSIONER REYNOSO: I wanted to comment, Madam  
5 Chair, that I agree with many of those observations, but  
6 my main comment is that my experience has been that we  
7 will vote on these projects that are sort of general.  
8 Then, as we get closer to them, we can be more specific.  
9 Maybe we want a project on who's watching the watchdog.

10           COMMISSIONER BERRY: Who's watching the guardians.  
11 Commissioner Thernstrom.

12           COMMISSIONER THERNSTROM: I very much agree with  
13 everything that Commissioner Edley has said. But I wanted  
14 to add -- and I like all three points very, very much. I  
15 wanted to add just one thought, and that is that  
16 increasingly, as I have stayed on Commission, I have come  
17 to believe that less is more. That is, when we take a  
18 topic up -- and I think it's an excellent topic -- of  
19 higher education and a question of whether the second-  
20 tier schools are becoming increasingly racially  
21 identifiable and so forth, that is a very serious and  
22 complicated issue, because obviously, its sources run  
23 deep into the K-through-12 system and the preparation of  
24 students for institutions of higher education, and so  
25 forth. And I'm very reluctant to see us do a kind of

1 quickie in the form of one briefing and then, you know, a  
2 short discussion and out of that comes some kind of  
3 conclusions. I would rather decide in general on a few  
4 issues that we could do really well, and do them well,  
5 because everything we're touching on here is enormously  
6 complex.

7 COMMISSIONER BERRY: Okay. Commissioner Redenbaugh.

8 COMMISSIONER REDENBAUGH: I'd like to make several  
9 points, if I may. First to associate myself with each of  
10 Commissioner Edley's three points, but particularly the  
11 first one in terms of the relevance of our work with  
12 respect to the legislative agenda. Obviously, our  
13 resources are limited, and I think that's an excellent  
14 point for increasing, as I think he said, our value add.

15 In the briefing book that I have, I didn't locate  
16 -- do we have scope and cost information for each of the  
17 30-some projects that the staff director has included in  
18 the briefing? I didn't find them in mine.

19 STAFF DIRECTOR JIN: No, Commissioner Redenbaugh,  
20 we don't. My understanding from talking to staff in terms  
21 of when I did my first one was that this is the time to  
22 just talk about the concepts, and once the Commissioners  
23 decide which projects to go forward with in terms of  
24 concept, then we will go through the process of costing  
25 them out. And then subsequently, when we go through our



1 budget planning process, we explain -- you know, we  
2 integrate it into that discussion. So this is not the  
3 time to do that.

4 COMMISSIONER REDENBAUGH: I'm sure each of these  
5 have merit, are fully valuable or equal in cost. Then I  
6 would ask that when we have that scope and cost  
7 information, that we also have a fairly good sense of the  
8 time required and the specific type and that goes back to  
9 Commissioner Edley's point, we want to synchronize these  
10 to the extent we can with the legislative agenda. So if  
11 we could include timing as well as cost in that next  
12 round of decision-making.

13 And then I would like -- I'm glad that we  
14 refocused the Native American project. I think we also --  
15 this list looks absent in having a Hispanic-focused  
16 project, and I myself would like to propose -- not today,  
17 but shortly -- some issues around economic development  
18 for our consideration for our project.

19 COMMISSIONER BERRY: Okay.

20 STAFF DIRECTOR JIN: Madam Chair, if I could just  
21 comment on one point that Commissioner Edley made that I  
22 know the other Commissioners endorse. Actually, the  
23 deputy general counsel has developed -- is not in project  
24 planning, is not a project, but she has a legislative  
25 task force that she created a number of months back that

1 tracks legislation. And you know what we'll do is, when  
2 we get back to Washington, I will talk with her and other  
3 appropriate people to make sure that all the comments  
4 that were made today regarding what that project should  
5 entail is already included. It very well could be already  
6 included. I know much of it is, for the reasons that the  
7 Commissioner Edley and others said why it's important. So  
8 we will follow up on that.

9 COMMISSIONER BERRY: Cruz, and then --

10 COMMISSIONER REYNOSO: Madam Chairman, I want to  
11 comment that I agree with Commissioner Thernstrom that  
12 there are some projects that really require a lot of time  
13 and effort. Sometimes, however, there are hearings and  
14 issues come up that we could have probably effectively a  
15 one-day hearing if we want to highlight that issue.

16 And the staff has put together a program that will  
17 allow us that flexibility, as those issues, as we know,  
18 so often come up. We're now talking about 2004 and 2005,  
19 and we know there will be crises that come up that we  
20 will be looking at.

21 So I just want to agree with Commissioner  
22 Thernstrom that the report, like the housing report we  
23 issued a couple of years ago -- very much in depth and so  
24 on, very good report, but also I think sometimes we can  
25 have hearings on a current issue that we can have the

1 hearing and get the report out quickly, and have some  
2 impact on public policy.

3 COMMISSIONER BERRY: Yes.

4 COMMISSIONER EDLEY: Two things. First, I want to  
5 suggest one thing, that if OGC has this legislative task  
6 force, it might be interesting or helpful if they could  
7 prepare for us just kind of a memo that indicates their  
8 best sense of what the legislative agenda is for the  
9 108th Congress, the new Congress that's just begun. What  
10 are the major pieces of legislation that seem to be up  
11 for reauthorization? I think just a little two-pager  
12 would be interesting, so we could all take a look at that  
13 before our February meeting. That's number one.

14 Second is that as an example, with respect to  
15 Commissioner Thornstrom's point about the need, less is  
16 more, with which I'm in basic agreement, if I can take  
17 this higher education issue and the concern that I stated  
18 about the emergence of a two-tier or cast system in  
19 higher education, if I personally were going to make a  
20 guess as to the one or two subtopics that I would want to  
21 pursue as a way of focus, it would be to look at equity  
22 in the allocation of resources to students attending  
23 these various tiers of higher education institution, and  
24 what is the impact of that, the racially disparate impact  
25 of that and the consequences for opportunity and

1 mobility.

2 Or secondly, I would look at community colleges,  
3 which overwhelmingly is where certainly students of color  
4 have their postsecondary education experience, and frame  
5 the question of whether or not community colleges are  
6 succeeding in their dual mission of, on the one hand, a  
7 stepping stone to four-year institutions or, on the other  
8 hand, an entryway into high-quality jobs in the economy.

9 My suspicion is that investigating either of those  
10 problems in some detail would illuminate very important  
11 agenda items for both federal and state governments. But  
12 that's just me.

13 So the question is: What's the best way  
14 institutionally for the Commission to develop a judgment  
15 about how to narrow a focus on the higher education  
16 issues? And for that I think some kind of a briefing that  
17 presents a smorgasbord together with staff work might be  
18 appropriate. So I don't disagree with Commissioner  
19 Thernstrom on the need for focus.

20 COMMISSIONER BERRY: So as I understand --

21 COMMISSIONER REYNOSO: Madam Chair, you once  
22 indicated that Commissioner Edley always has three  
23 points. He only made two points. I want to hear the third  
24 one.

25 COMMISSIONER EDLEY: Well, the third point frankly

1 would be -- all right.

2 COMMISSIONER THERNSTROM: One comment in response  
3 to Commissioner Edley. It's not simply a question of  
4 focus, of course. It's a question of depth. I'm concerned  
5 about both.

6 COMMISSIONER EDLEY: Agreed.

7 COMMISSIONER THERNSTROM: I think in terms of the  
8 Commission's effectiveness that these statements,  
9 reports, whatever we issue, need to be grounded in work,  
10 in consideration, in staring at a lot of details and  
11 exploring the issue. Maybe the two that you named, two  
12 aspects of the larger question that you named may be the  
13 two most important. I can think of others, and this is a  
14 kind of question that takes some time, some energy. It  
15 can't be a once-over-lightly, and that is really my  
16 concern.

17 COMMISSIONER BERRY: Listening to all of the  
18 comments made by the Commissioners and trying to sum up  
19 where I think we are is that on the financial aid to  
20 higher education project, the staff should modify that  
21 project to take into account the points that have been  
22 made here about the various components of the overall  
23 problem of higher education. Financial aid is one  
24 component of it. Wealth is one component, poverty, and so  
25 on, income. But there are all of these other components

1 which I won't list again because they have been listed by  
2 the Commissioners who did so.

3 But I would say that in addition to that, there is  
4 another way to look at it that the staff might think  
5 about. Everything we've been discussing is in the realm  
6 of the predominantly white institutions of higher  
7 education and what they do about the education of people  
8 of color, in particular Latinos and African-Americans.

9 And there is another whole sector of higher  
10 education which comes into play and increasingly the  
11 emphasis has been on lots of Latinos and African  
12 Americans attending that sector of higher education with  
13 the Latino higher education institutions, Hispanic  
14 institutions --

15 COMMISSIONER EDLEY: HSI.

16 COMMISSIONER BERRY: -- and historically black  
17 colleges and universities. And so some people in policy  
18 terms see those as the place in which this need for  
19 higher education can be responded to. And there are very  
20 serious issues, resource issues, everything that was  
21 listed in terms of resources available to the students,  
22 the kinds of upward mobility and opportunities they have  
23 thereafter, all of the issues that you can tick off when  
24 you start talking about the cascading effect and the  
25 public PWIs applied thereto.

1           So I think that probably the best thing to do,  
2 after listening to everybody, is to have a briefing or  
3 two on these various components just to sort of have some  
4 experts come in and identify what these issues are and  
5 talk to us about them, and then have staff modify this  
6 proposal to take into account some chunks of this and to  
7 do an indepth analysis.

8           But when I say "indepth," we also have to balance  
9 at the Commission the need to get things done before the  
10 patient dies and the need to make sure that the work is  
11 quality work. And so we can, I think, satisfy both of  
12 those objectives if the staff can think about doing it  
13 that way. And the staff might want to at some point  
14 invite Commissioner Edley and Commissioner Thernstrom and  
15 anybody else who has anything to talk about this, to talk  
16 with them further about it.

17           COMMISSIONER EDLEY: May I just briefly add  
18 something, Commissioner? The other reason I should just  
19 alert the staff and others on this, the financial aid  
20 dimension of this, I mean, the big issue is what happens  
21 with the federal financial aid programs, the PELL grants  
22 and so forth, the \$50 billion that we spend there every  
23 year. And that's going to be settled this summer in the  
24 reconciliation legislation. So if we're talking about a  
25 2004 project, the legislative vehicle for doing something

1 about affordability, et cetera, will have left the  
2 station. And that's another reason, I think, to rethink  
3 what we do in higher ed.

4 COMMISSIONER BERRY: So I think in the near term,  
5 meaning immediate term, we need to do something about  
6 starting this up and getting some briefings at least  
7 done.

8 The other is on the Patriot Act hearing, and I'm  
9 sure the staff heard what they ought to do is to modify  
10 the proposal to have it tend more toward the issues that  
11 were listed rather than the civil liberties issues that  
12 are very important issues. But that is what the general  
13 feeling is.

14 And then on the legislative agenda, to see where  
15 they can tie in proposals in the future. The funding for  
16 civil rights enforcement is obviously timely every year  
17 because Congress has to consider that every year. But  
18 other proposals. So that's what I heard on 2004.

19 COMMISSIONER THERNSTROM: Can I just say one more  
20 word on the higher education project?

21 COMMISSIONER BERRY: Yes, Commissioner Thernstrom.

22 COMMISSIONER THERNSTROM: One thing, I very much  
23 appreciate your mentioning the historically black  
24 colleges. As you already know, nine out of the top ten  
25 colleges that send black students on to Ph.D.s are



1 historically black colleges. They do play an enormously  
2 important role, and I would very much welcome including  
3 them in any consideration.

4 I wonder -- and this is a process point -- I  
5 wonder, instead of voting on projects today, whether we  
6 could have suggested that staff develop a plan that  
7 includes the suggestions made today. They could send us a  
8 list in, let's say, two weeks. We could send them our  
9 suggestions in reply a few days later, so we have a  
10 close-to-finished list to consider in February in  
11 Charlotte.

12 COMMISSIONER BERRY: Commissioner Thernstrom, let  
13 me just tell you that the state of play on this is that  
14 on 2005 -- which we haven't gotten to yet -- we have to  
15 vote. But on 2004, the suggestions that we've all made,  
16 since we already agreed to do those projects, if I  
17 understand it correctly, last time, are suggestions for  
18 modifying the substance and titles and scope of the  
19 projects, which the staff is bound to take into account  
20 and do.

21 But if you wish them to in some kind of memo or  
22 something or in a revision of the statement to include  
23 those points so that you can see them so that if you have  
24 further points that you would like to make, you can do  
25 that. We can do that.

1 But the overall idea of doing higher education and  
2 doing something on the Patriot Act and so on, we already  
3 agreed that we would do those.

4 COMMISSIONER THERNSTROM: I would like to have some  
5 kind of memo. That would be very nice, just to see it put  
6 together on a piece of paper. And I appreciate that very  
7 much.

8 COMMISSIONER BERRY: And then next time, if you  
9 have further comments, you can make them then.

10 COMMISSIONER THERNSTROM: Sure.

11 STAFF DIRECTOR JIN: Madam Chair, can I make sure I  
12 understand? Was the staffing tasked with something? Okay.

13 COMMISSIONER BERRY: You understand?

14 STAFF DIRECTOR JIN: I think I understand.

15 COMMISSIONER BERRY: Okay. Let's go to the proposed  
16 projects for 2005. Are there any on here that strike  
17 anyone as being things that they're particularly  
18 disinterested in, so we can knock them off first without  
19 discussing them? Are there things that people just say,  
20 "Nyah, why should we do that?"

21 Commissioner Edley is going, "Nyah."

22 COMMISSIONER EDLEY: Right. Well, before I start  
23 trashing some of the suggestions, I want to say there are  
24 a number of terrific suggestions.

25 (A discussion was held off the record.)

1 COMMISSIONER EDLEY: I yield to Russell.

2 COMMISSIONER REDENBAUGH: If I could make a process  
3 suggestion, since all projects seem to have some friends,  
4 it might be more judicious to identify a small number of  
5 sort of overarching themes that we anticipate we want to  
6 deal with in 2005, and then say, "Well, which of these  
7 projects fit well inside that framework and what  
8 additional projects might one consider in that  
9 framework," so that we could leave behind the "nyah"  
10 projects rather than identifying them specifically.

11 COMMISSIONER BERRY: Well, I'd be happy to do that,  
12 but I think my own view is that, looking at this list  
13 that the staff put together, and respecting the fact that  
14 they put it together, that I think on a couple of these,  
15 we could very easily tell them it's a nonstarter, and  
16 then do what you just said.

17 COMMISSIONER REDENBAUGH: All right. Then if you  
18 would like to begin, that would be wonderful.

19 COMMISSIONER BERRY: Yes. Commissioner Edley.

20 COMMISSIONER EDLEY: Well, I suggest that given our  
21 limited resources and so forth, that under OCRE, number  
22 five, the lack of African-American head football coaches  
23 is not a sufficiently high priority.

24 COMMISSIONER REDENBAUGH: Probably doesn't affect a  
25 large number of individuals.

1           COMMISSIONER EDLEY: That's right. And if we were  
2 going to look for a project that would be important  
3 because of its symbolic significance, that's not one that  
4 I would -- even under that rubric, I don't think that  
5 that would be the one I would define.

6           COMMISSIONER BERRY: Is there anyone who objects to  
7 our excising that project? Without objection, so ordered.  
8 Continue.

9           COMMISSIONER EDLEY: The second one -- this will be  
10 a little more difficult -- I'd suggest is number 1, under  
11 OCRE, empowerment zones and enterprise communities, and  
12 here's my reasoning. I don't think that there is going to  
13 be much dispute among independent analysts that the  
14 empowerment zone/enterprise community strategy has had  
15 very limited impact. But they will also say that it is  
16 extremely difficult to study the question rigorously  
17 because of the number of variables, the absence of  
18 controls, the ebb and flow of the overall economy in  
19 which these communities have to exist.

20           And finally, I'd say -- this is third -- that as  
21 someone who is very much involved in the early days of  
22 the Clinton administration in shaping the empowerment  
23 zones effort, I have to say that -- and by the way,  
24 opposed it as a waste of money -- I think that there's  
25 simply not going to be any surprises here, and most

1 people thought that this was at best a little bit of a  
2 Band-Aid effort. And so I just don't think that this is a  
3 good use of our resources to comment on the empowerment  
4 zones concept as such. It's not really what we are best  
5 at institutionally. I like the idea of doing something  
6 related to economic opportunity, but I don't believe that  
7 this would be the right strategy to pursue.

8 COMMISSIONER THERNSTROM: I second that. I very,  
9 very much agree with that.

10 COMMISSIONER BERRY: Is there anyone -- who else?  
11 Do you agree, Russell?

12 COMMISSIONER REDENBAUGH: Well, I agree, but I  
13 would strongly urge that we substitute an economic  
14 development project for this one as conceived. You know,  
15 I think that's a permanent concern, should be a permanent  
16 concern of the Civil Rights Commission, the income gap  
17 and the wealth gap that we have not -- yeah. So I would  
18 agree that enterprise zones have been studied and not  
19 well effective. So I would propose a substitute project,  
20 and I do not have one in mind yet.

21 COMMISSIONER BERRY: Elsie, you agree?

22 COMMISSIONER MEEKS: I absolutely agree. I don't  
23 think that we're going to, in fact, improve empowerment  
24 zones or enterprise communities by looking at this from  
25 the U.S. Commission's standpoint.

1           COMMISSIONER EDLEY: Madam Chair, I'd like to --  
2 Russell, if you don't mind, I have some thoughts on this  
3 and I'd like to maybe put my head together with Russell's  
4 and maybe we would even be able to come back to everybody  
5 with a joint suggestion about an economic-development-  
6 related project.

7           COMMISSIONER THERNSTROM: That's fine.

8           COMMISSIONER BERRY: Just a moment.

9           COMMISSIONER THERNSTROM: I have suggested that  
10 looking at the barriers to entrepreneurship in the inner  
11 cities, that still seems to me a very good topic. You  
12 might want to consider that in talking with Russell about  
13 how to shape a project.

14          COMMISSIONER BERRY: Commissioner Meeks.

15          COMMISSIONER MEEKS: Yes, actually, I think that we  
16 may be able to possibly eliminate one more, but combine  
17 it around that theme of economic development. Number  
18 three, effects of a down economy on economic  
19 opportunities. I mean, those two things I think could  
20 both be eliminated, but through a different link, if we  
21 want to look at an economic development project.

22          COMMISSIONER REDENBAUGH: We will probably  
23 conclude, Elsie, that one should avoid a down economy.

24          COMMISSIONER BERRY: I wish you would manage to  
25 figure out how to do that. Lead us in that direction, as

1 Elsie says.

2 So what is going to happen on this is we're not  
3 doing number 1 and number 3, but Christopher Edley and  
4 Russell Redenbaugh -- and would you like to be included?  
5 Elsie would like to do economic development, would like  
6 to be included -- will come up with a proposal for us and  
7 we will expect -- who is going to initiate discussions on  
8 this, so we don't come back next time with me wondering  
9 who is supposed to --

10 COMMISSIONER REDENBAUGH: Why don't I do that?

11 COMMISSIONER BERRY: And you will send to the staff  
12 director so he can read it, distribute it, staff can talk  
13 about it, whatever your proposal is --

14 COMMISSIONER REDENBAUGH: Yes.

15 COMMISSIONER BERRY: -- for the next meeting.

16 COMMISSIONER REDENBAUGH: Yes.

17 COMMISSIONER BERRY: Okay. Now, see? This is  
18 working, Russell.

19 COMMISSIONER REDENBAUGH: You are right.

20 COMMISSIONER BERRY: Now, since it's working, why  
21 don't we look at these others and see if anybody wants  
22 them?

23 There is, "Removing the vestiges of de jure  
24 segregation in public higher education systems in states  
25 with a prior history of segregation pursuant to state

1 law," which would not be the title of the report, I hope.  
2 "Where are we now?" And I personally believe that that is  
3 a very important topic. The Commission hasn't done  
4 anything on this subject in years. And there have been  
5 some court decisions and some litigation on this, and  
6 some policy decisions and some major developments on  
7 these issues since then.

8 So I think it would make an interesting project to  
9 see what is happening and to update the report we did  
10 some years ago, which had a shorter title but was about  
11 the same subject.

12 I don't think it's the major priority in terms of  
13 -- you know, life is not going to stop tomorrow if it  
14 isn't done, but I think it's an important issue. Does  
15 anyone have any comments on that one, or objections?

16 COMMISSIONER REYNOSO: I think it's proper.

17 COMMISSIONER BERRY: Okay. So we'll leave that one  
18 for the time being. Yes, Commissioner Edley.

19 COMMISSIONER EDLEY: The only thing -- I think it's  
20 a terrific project, and I just want to register a comment  
21 that depending upon how the higher education thing that  
22 we talked about for 2004 shakes out, it may affect  
23 whether or not we think that this number 2 remains a  
24 strong priorities.

25 COMMISSIONER BERRY: It can be looked at again. So



1 we can say it's okay to leave it there with the idea that  
2 it can be revisited after the 2004 project is modified  
3 and we see what it looks like. Then there's, "The  
4 Internet and other technological discrimination against  
5 persons with disabilities."

6 Yes, Commissioner Edley.

7 COMMISSIONER EDLEY: Folks, I think this is  
8 incredibly important. Maybe I only think that because I  
9 don't know anything about it. But it strikes me, just on  
10 its face, as the kind of issue that isn't on most  
11 people's radar screens. And that if you look out ten  
12 years from now, five or ten years from now, it looms  
13 large as an opportunity issue for millions and millions  
14 of people. So I heartily endorse our giving some  
15 attention to it.

16 What I want to raise, however, or suggest is that  
17 the staff might think about whether this is a kind of  
18 project that might be conducted best if we in some sense  
19 contract out for it. Rather than trying to develop the  
20 in-house staff expertise to do a thorough and indepth  
21 look at it, we just might think about whether there are  
22 outside experts who could be commissioned to write papers  
23 on the subject, rather than using the staff as such to do  
24 it. It's just a suggestion about how this might be most  
25 effectively pursued in a cost-efficient way.

1           COMMISSIONER BERRY: Terri can take that under  
2 advisement.

3           COMMISSIONER THERNSTROM: Can I just comment?

4           COMMISSIONER BERRY: Yes, Commissioner.

5           COMMISSIONER THERNSTROM: I like the latter  
6 suggestion. I'd like the topic, however, before we go  
7 down this row, to be better defined than it currently is.  
8 I'm not sure I know what this topic really consists of. I  
9 need a few more details, and before we contract it out, I  
10 think we should have some very specific questions in  
11 mind, based on the landscape as we understand it. And so  
12 I would prefer that some staff work be done, come back to  
13 us to look at it again, and define it with more  
14 precision.

15           COMMISSIONER BERRY: Well, if the others agree,  
16 what we will do is say that conceptually -- which is all  
17 we're doing at this point -- we like the topic, but that  
18 we'd like to see the concept elaborated on, which is what  
19 they have to do.

20           COMMISSIONER THERNSTROM: And I'm also a little  
21 concerned about, again, how thin we're spreading  
22 ourselves, but maybe that's only my concern.

23           COMMISSIONER BERRY: Well, when we finish this, we  
24 will see how many projects we have for 2005 once we've  
25 excised some. So far, we have this one and maybe number

1 2, but maybe not number 2, because it may become part of  
2 2004. So far there's only this one.

3 The other is, "Religious discrimination against  
4 American Muslims." Does anyone have any news about that  
5 project?

6 COMMISSIONER REYNOSO: Madam Chair, it seems to me  
7 it will be timely to do a project of that sort. We've  
8 been concerned about religious discrimination based on  
9 religion in times past, and certainly we have seen all  
10 too many incidents lately of Muslims coming sometimes  
11 under physical attack and sometimes under verbal attack.

12 So I think that just simply taking a look at it  
13 and seeing a report certainly is not an indepth report on  
14 this issue. So I think it's not only within our purview,  
15 but something to pursue further.

16 COMMISSIONER BERRY: Does anyone else have any  
17 comments, one way or the other?

18 COMMISSIONER REDENBAUGH: What is meant by  
19 religious discrimination?

20 COMMISSIONER BERRY: Discriminating against people  
21 because of their religion.

22 COMMISSIONER REDENBAUGH: In the practice of their  
23 religion?

24 COMMISSIONER BERRY: No, because they are  
25 identified as Catholic or --

1 COMMISSIONER REDENBAUGH: Okay.

2 COMMISSIONER BERRY: -- or Muslim or whatever it  
3 is, whatever their religion is. Discriminating against  
4 them because one knows that they are of a particular  
5 religion.

6 COMMISSIONER REDENBAUGH: Got it.

7 COMMISSIONER BERRY: The Commission has in the  
8 past, years ago, done reports on discrimination against  
9 Catholics in various aspects. A report on southern  
10 eastern Europeans in which religious discrimination was  
11 part of the subject. Religious discrimination in terms of  
12 fundamentalists and schools.

13 And so the point is that if the particular people  
14 are of a certain religion and you find that out, do you  
15 discriminate against them? So the question is, and when  
16 can you discriminate against them, if you can, and do it  
17 validly?

18 Anyone have any objections to further concept  
19 papers and working out the details of this proposal?  
20 Okay. If there are no objections, for now we will go  
21 forward with it.

22 Then there's, "Ten years after Adarand: The effect  
23 of changed federal procurement standards on women- and  
24 minority-owned businesses."

25 COMMISSIONER REYNOSO: Madam Chair, I think this is

1 somewhat related to the issue being discussed earlier  
2 about economic development, because obviously, these  
3 federal rules have some impact on it.

4 COMMISSIONER BERRY: Okay.

5 COMMISSIONER MEEKS: I guess I would suggest that  
6 if we're thinking about framing an economic development  
7 issue, that that be one of the issues that we could look  
8 at under that theme. And I think it is very important.

9 COMMISSIONER BERRY: Commissioner Edley.

10 COMMISSIONER EDLEY: I endorse that trend. Maybe it  
11 can be part of the economic development. The general  
12 point I'm making is if we're going to do this, assessing  
13 the effect in terms of the numbers of participants or the  
14 volume of contracts is a pretty straightforward exercise  
15 of collecting the data.

16 The harder question is whether these programs work  
17 as intended or work as advertised or are effective as  
18 advertised. So I think that if we're going to do it, if  
19 we're just going to collect the numbers, that's easier to  
20 do by sending a letter to the agencies than asking us to  
21 send them their data on what's happened over the last ten  
22 years in terms of rates of participation.

23 So if we're going to do it, I think we ought to  
24 get to the question of whether or not these programs  
25 work. Because ultimately, if they are effective neither

1 at remedying discrimination against women and minority  
2 entrepreneurs, nor at opening up opportunities for  
3 entrepreneurship and economic development, then I think  
4 people who care about those two things should find other  
5 strategies, find some other strategies. So as long as we  
6 get to the effectiveness issue, I support this.

7 COMMISSIONER THERNSTROM: Again, it seems to me the  
8 numbers alone aren't going to tell us anything worth  
9 knowing. Again, it seems to me the latter question is,  
10 one, we do need the numbers in order to consider the  
11 latter questions. But I don't think it can be simply  
12 absorbed into the project on economic development or  
13 however it's framed. And it is a separate question and  
14 it's a rather large issue. I again am back to my no once-  
15 over-lightlys here and we've got to get our priorities  
16 here.

17 COMMISSIONER BERRY: Commissioner Redenbaugh, what  
18 do you think?

19 COMMISSIONER REDENBAUGH: I think we ought to make  
20 -- perhaps the other two Commissioners on this economic  
21 development group and I should look at that question and  
22 come back with a recommendation if it can be absorbed and  
23 treated with thoroughness. If not, we can, I think, make  
24 that determination and recommendation.

25 COMMISSIONER BERRY: Okay. All right. So what we

1 will do with that one is to defer it and say that it's an  
2 important question and that, you know, your committee may  
3 -- your subcommittee may tell us something about it. Even  
4 if you say, "Collect the data and put it in the  
5 appendix," at least we'd have the numbers.

6 Now, under OCRE, we have an economic development  
7 project to come. The Internet to be worked out more, and  
8 no real objections to it conceptually. And religious  
9 discrimination to be worked out as the three things that  
10 are still there.

11 COMMISSIONER REDENBAUGH: I have a concern on the  
12 Internet project, as I understand it. This is a question  
13 about acceptability.

14 COMMISSIONER BERRY: Right.

15 COMMISSIONER REDENBAUGH: What is our thinking  
16 about that?

17 COMMISSIONER BERRY: Well, the paper, as I  
18 understand it, talks about the way the technology has  
19 been advanced to access all of these things. In some  
20 cases, experts believe that you have to modify it in  
21 certain ways to make sure that people have accessibility,  
22 and that some of the modifications aren't being done or  
23 it hasn't been thought through.

24 I'm not saying this is true. I'm just explaining  
25 the concept as I understand it, that there's a need to

1 think through, as technology develops and as we use the  
2 Internet and so on, how people who are disabled will  
3 access it, and that that is not always done, and  
4 sometimes it means taking one step backwards.

5 There's a description, I think, in the paper about  
6 accessing -- I think it's ATM technology and some way of  
7 not being able to access it; it was better to do it the  
8 way it was done earlier. So it's trying to figure out all  
9 these issues and make some recommendations about what  
10 should be done so that --

11 COMMISSIONER REDENBAUGH: It's broader than merely  
12 the Internet, then.

13 COMMISSIONER BERRY: Right. It says "and other  
14 technological" -- it just mentions the Internet, but it's  
15 trying to make sure that when technology is utilized like  
16 the Internet, that there's some thinking through of how  
17 disabled people will access all this stuff.

18 COMMISSIONER REDENBAUGH: Yeah. I'm a little  
19 concerned about this, in that I think the principal issue  
20 here, as I understand it, is that the development of  
21 computers is that they're primarily now, as we all know,  
22 visual representations of things and graphical  
23 representations. That technology is developing very  
24 rapidly and, of course, it makes it difficult for people  
25 who are visually impaired.



1           But I don't know that it's good public policy to  
2           constrain the development. There are a large number of  
3           companies now, commercial companies, developing and  
4           adapting software for solving this problem and, of  
5           course, they're always slightly behind the leading edge.  
6           But you know, I hate to --

7           I'm not yet convinced that this is a civil rights  
8           issue. It is a difficulty for people with visual  
9           impairments, and it is a problem.

10           COMMISSIONER BERRY: Is there an accessibility  
11           issue for people of all income levels and statuses who  
12           are disabled to make sure they have --

13           COMMISSIONER REDENBAUGH: That's a question of  
14           poverty rather than a question of disability.

15           COMMISSIONER BERRY: It's a question of both, isn't  
16           it?

17           COMMISSIONER REDENBAUGH: Like having different  
18           accessibility to health care.

19           COMMISSIONER BERRY: If you're a poor disabled  
20           person, aren't you both poor and disabled, instead of  
21           being just poor?

22           COMMISSIONER REDENBAUGH: I think by definition,  
23           yes.

24           COMMISSIONER BERRY: So being that you suffer from  
25           a disability which may be exacerbated by your poverty

1 because you lack the wherewithal to have access to things  
2 that people who have more wealth or income -- I forget  
3 which one it is -- have access --

4 COMMISSIONER REDENBAUGH: I think poverty is a  
5 terrible thing, but in this case I don't see the civil  
6 rights issue.

7 COMMISSIONER BERRY: Well, if a person is disabled  
8 and the problems they have with their disability are  
9 exacerbated by their poverty, and policies take no  
10 account of their disability when trying to figure out  
11 what people can do, and it's made worse by their poverty,  
12 then it seems to me that there's a question as to whether  
13 it's a civil rights issue. And the way we've always done  
14 it is, sometimes you ask whether something is a civil  
15 rights issue, and you look at it to see if it is.

16 COMMISSIONER REDENBAUGH: Right.

17 COMMISSIONER BERRY: And other times you already  
18 know it is.

19 COMMISSIONER REDENBAUGH: Which is this?

20 COMMISSIONER BERRY: So with this one, I don't  
21 know. But other people are raising their hands.

22 COMMISSIONER REYNOSO: Madam Chair, the  
23 description, for example, just reading, "To address these  
24 concerns," i.e., concerns of the disabled, "in 1998  
25 Congress amended section 508 of the Rehabilitation Act of

1 1973 to require that federal agencies' electronic and  
2 information technology is equally accessible to people  
3 with disabilities, including employees as well as members  
4 of the public, as it is to people without disabilities."

5       It seems to me that it's timely to review whether  
6 or not that has happened. It if it hasn't happened, why  
7 not? What are the problems? And indeed, a review, what  
8 Commissioner Redenbaugh indicated -- I know many of the  
9 companies already are developing voice-sensitive  
10 technology, for example -- and see where we are and what  
11 recommendations if any, we could make to reach the ideal  
12 of accessibility.

13       COMMISSIONER BERRY: Commissioner Edley.

14       COMMISSIONER EDLEY: Of course, I'm one of the  
15 people, perhaps like Russell, on the Commission who is  
16 always trying to focus on, is this really a civil rights  
17 issue? On this one, though, it seems to me that you can  
18 look at it two ways. I mean, in the narrowest sense, to  
19 me it's like the voting technology question, where one  
20 might say, as people consider alternative voting  
21 technologies and as we make investments in new voting  
22 technologies, like the touch screen systems, are we doing  
23 so in a way that will provide equality of opportunity,  
24 equality of access to as broad a segment of the  
25 population as possible?

1           And that leads you to take consideration of people  
2 with limited English proficiency or people who have one  
3 or another kind of disability. I think a slightly broader  
4 framing of it would be with technology shifts, with the  
5 increasing reliance on the Internet, and so forth, are  
6 there dangers of exacerbating barriers to opportunity  
7 faced by these groups that are identified in the civil  
8 rights statutes as being a particular concern because  
9 they ordinarily lack political or economic clout to  
10 prosecute their interests?

11           So in that sense, I think there's a prophylactic  
12 opportunity here to think ahead several years and ask the  
13 question of whether or not the evolution of these  
14 technologies will aggravate barriers to opportunity. And  
15 to the extent there is, are there some things that we  
16 could be doing, given our concerns with opportunity, some  
17 things that we could suggest in terms of private  
18 practices or public policies that would be helpful?

19           But I think it's a great big question mark, and  
20 that's one reason I think we ought to look at it. It's a  
21 question mark.

22           COMMISSIONER BERRY: Okay. We can revisit it again  
23 at some other time if we are not satisfied. But for now,  
24 we'll leave it there.

25           Under the Office of General Counsel, there are

1 four projects the staff recommends. One is,  
2 "Underrepresentation of minorities in the decennial U.S.  
3 census." "Collateral noncriminal consequences of a  
4 criminal conviction" is a second one. "Increasing  
5 minority and female media ownership through access to  
6 capital" is the third one. And the fourth one is, "A  
7 review of the Community Reinvestment Act."

8 Does anyone have any concerns, negative concerns,  
9 about any of these first, I'll ask?

10 COMMISSIONER THERNSTROM: I have one comment, if I  
11 may be permitted.

12 COMMISSIONER BERRY: Commissioner Thernstrom.

13 COMMISSIONER THERNSTROM: On the  
14 underrepresentation of minorities and females in the  
15 decennial census, I would like to include in that topic -  
16 - instead of narrowing the topic, which I have been  
17 urging, I'd like to expand it, actually.

18 I'd like to include in that topic a discussion of  
19 the classifications, the racial and ethnic  
20 classifications, the boxes, as it were, that the U.S.  
21 census uses, whether their varied decisions to change the  
22 categories over time makes sense, what they're talking  
23 about makes sense. And you know, which does open up the  
24 door to how we count people, you know, the groups, the  
25 group labels, and so forth, that are invented in

1 government policies. But I do think that that is part of  
2 this topic.

3 COMMISSIONER BERRY: Well, I would love to see that  
4 and I would like it to do a historical study of this  
5 going all the way back to the beginning of the census.

6 COMMISSIONER THERNSTROM: Good. That would be  
7 great.

8 COMMISSIONER BERRY: I think that would be  
9 wonderful to have in terms of what happened and why and  
10 how it happened as far as we know.

11 COMMISSIONER THERNSTROM: I like that very much.

12 COMMISSIONER BERRY: Okay. Anybody --

13 COMMISSIONER EDLEY: Can I just say --

14 COMMISSIONER MEEKS: I think this is a great one,  
15 in part because of its timing. This actually fits quite  
16 well with the process for designing the next decennial  
17 census. It gets us in at the beginning of the process so  
18 that if we have any advice, it can be taken into  
19 consideration. So I want to compliment the staff on  
20 flagging this one.

21 COMMISSIONER BERRY: And it might end up having to  
22 be a joint OCRE/OGC project because it's going to require  
23 -- it's not just going to be theories, or whatever, but  
24 as you guys work it out, there's a lot of research,  
25 looking into the published stuff, and other stuff.

1           COMMISSIONER EDLEY: The other thing on this one  
2 is, this may be broadening it too much, but if the staff  
3 could at least think about the question of whether,  
4 combined with this, that it should be whether there are  
5 adequate data provided in the census, in the decennial  
6 census and otherwise, on various racial and ethnic  
7 subgroups. We had a big meeting -- I should say the  
8 Harvard Civil Rights Project had a big meeting with a  
9 group of Asian Pacific American scholars and policy  
10 wonks, and just the tremendous problems with  
11 disaggregation of data in the Asian Pacific American  
12 community masking the bimodal distribution, the whole-  
13 model minority issue, and this difficulty of, if you  
14 don't have the data with respect to Asian subgroups, with  
15 respect to Native Americans, increasingly arguably with  
16 respect to different elements of the Hispanic population,  
17 if you don't have the data, then you don't know whether  
18 or not there are problems that require appropriate public  
19 policy strategies.

20           So I would just suggest that maybe there's a way  
21 of, within the compass of this project, identifying  
22 whether or not people in the research community feel that  
23 they're getting adequate levels of fine definition for  
24 purposes of disaggregation.

25           COMMISSIONER THERNSTROM: Well, the answer is no.

1 The research community is not getting it, and I don't  
2 think it's arguably the Hispanic data is too crude. It is  
3 too crude, lumping all groups together. And I would, as  
4 well, argue that the African-American label is less  
5 crude, but it would be nice to have some breakdowns on  
6 recent immigrants as opposed to African-Americans who  
7 obviously have been here for generations.

8 And you know, all of this data is too crude, and  
9 scholars do find it frustrating. And so once again, I'm  
10 signing on to what Commissioner Edley is saying.

11 COMMISSIONER EDLEY: Then if I could ask, Abigail,  
12 then, where we really could make a contribution, where  
13 the Civil Rights Commission could make a contribution is  
14 saying of all of this infinity of data requests/needs  
15 expressed by all kinds of groups and researchers and so  
16 forth, like you always want more, obviously, there are  
17 budget constraints. So of all of this infinity of options  
18 from a civil rights perspective, what are the highest  
19 priorities?

20 COMMISSIONER THERNSTROM: Right. And I'd be  
21 delighted to talk to you about that and try to hammer  
22 something out.

23 COMMISSIONER BERRY: Okay, so we're --

24 COMMISSIONER REYNOSO: Madam Chair, I just want to  
25 comment that I think all four of them are worth doing,



1 but I know some of us have had discussions that when we  
2 actually come to 2005, if we get two really good projects  
3 out of the Office of Civil Rights Evaluation and two out  
4 of the Office of General Counsel, we'd be fortunate just  
5 in terms of our past history.

6 So I just want to be reminded that we're setting  
7 this down, but later I will revisit it and see what we  
8 think is the highest priority at that time.

9 COMMISSIONER MEEKS: Following up on that, which is  
10 a good point, I would probably argue very long about  
11 review of the Community Reinvestment Act. I think anyone  
12 that works in minority communities, getting capital  
13 access is a key issue. So along with that, then, I also  
14 think in looking at some of the subprime predatory  
15 lending that's going on, targeting more and more minority  
16 communities, would fall right in line there and I would  
17 really like to see that number 4 left in.

18 COMMISSIONER BERRY: Okay. What we will do, because  
19 now we are at a point where we should think about  
20 bringing this discussion to a close, we will revisit this  
21 whole discussion again in February.

22 But let's just say for now that  
23 underrepresentation of minorities with the addition of  
24 all of the discussion that has taken place here about  
25 what people would like added to it, will be taken into

1 account by the staff, and that we invite you,  
2 Commissioner Edley, Commissioner Thernstrom, to speak to  
3 the staff or have your assistants or somebody speak to  
4 the staff with other ideas that you have, in the next  
5 week or so, so that they can put together what they're  
6 putting together for the next meeting on this particular  
7 project.

8 Then the other is that the Community Reinvestment  
9 Act would be one that they would keep. Collateral  
10 noncriminal consequences of criminal conviction I think  
11 is really important, but I would only -- things like not  
12 being able to vote and -- the proposal does not include  
13 as a consequence of all of what happens recidivism, which  
14 is a major consequence of the denial of civil rights,  
15 according to some people's studies. That can at least be  
16 looked at to see if it has something to do with it. And  
17 also, the large numbers of people who are coming out of  
18 prison now, the numbers are increasingly large of people  
19 who have served time for these various drug offenses from  
20 the large prison population. So this is going to be a  
21 major problem and so I would think that that one needs to  
22 be fleshed out a little bit.

23 I'm not particularly excited about the increasing  
24 minority and female media ownership through access to  
25 capital. Not that I'm not for increasing access, but in

1 terms of all of the issues that are there, I think that  
2 access to capital is important, but it's not really the  
3 only issue. And then when I look at BET, I wonder if I  
4 want to increase minority ownership of -- but no, be glad  
5 Viacom owns BET now.

6 So in any case, are there people who want to keep  
7 number 3? Number 3. Number 3. Going once. Going twice. So  
8 hearing no strong argument for number 3, we'll drop it.  
9 And we'll look again at what they have to offer on  
10 numbers 1, 2, and 4 and say tentatively at least that we  
11 like these. All right. Thank you very much for that  
12 discussion. And staff director, we will look forward to  
13 discussing these issues again next time.

14 The next thing we have on the agenda is  
15 presentations from State Advisory Committee chairs from  
16 the Rocky Mountain region. Did I hear someone say  
17 something?

18 COMMISSIONER BRACERAS: Yes, this is Jennifer  
19 Braceras. Can you hear me?

20 COMMISSIONER BERRY: Yes.

21 COMMISSIONER BRACERAS: At this time I'm going to  
22 have to get off the call. So I just want to let you know  
23 that I am hanging up at this point, and I look forward to  
24 seeing you all in North Carolina next month.

25 COMMISSIONER BERRY: Thank you very much.

1           COMMISSIONER THERNSTROM: I also have to get off.  
2 My hotel room is throwing me out at noon.

3           COMMISSIONER BERRY: All right. Thank you very  
4 much.

5           COMMISSIONER THERNSTROM: 'Bye, everyone.

6           COMMISSIONER BERRY: We're going to take a five-  
7 minute break and then start up these panels.

8           (A recess was taken from 9:56 to 10:05.)

9           COMMISSIONER BERRY: Let me just say, first of all,  
10 as many of you probably know -- or you may not know, the  
11 Commission -- we're here because the Commission decided  
12 in May of last year that as often as possible we would  
13 meet outside of Washington, outside the Beltway, outside  
14 of Washington, so that we could interact with our local  
15 SACs and local people on the ground where they are, or  
16 someone near where they are, as opposed to always being  
17 cooped up in our conference room in Washington, having  
18 meetings and talking about people elsewhere.

19           And so we are very excited to be here in  
20 Albuquerque for this month's meeting. And I am also  
21 pleased that Sharon Miner and Kristine Kooch Jacobus from  
22 Senator Jeff Bingaman's office were here. I don't know if  
23 they're still here. Yes, there they are, back there.  
24 We're pleased that you were able to join us, and I hope  
25 you found the discussions interesting so far.

1           Also, I want to acknowledge that there are a  
2 couple of Commission staffers who abandoned us some years  
3 ago sitting out there in the audience, and I'm pleased  
4 that they are here. And I understand that there's another  
5 Commission foreman, Commission staffer, who lives out  
6 here but who isn't here today, because he is in Denver.  
7 But I'm just pleased that you were able to come also.

8           We are going to have presentations from our Rocky  
9 Mountain Region State Advisory Committees, as well as  
10 from two panels organized by the New Mexico State  
11 Advisory Committee in conjunction with the Rocky Mountain  
12 Regional Office on civil rights issues facing New Mexico.  
13 The first panel will explore American -- is this right --  
14 Indian issues in New Mexico?

15           STAFF DIRECTOR JIN: This panel.

16                           **VII. Panel - SAC Chairs**

17           COMMISSIONER BERRY: The first panel is our SAC  
18 chairs, and I want to introduce John Dulles, who is our  
19 regional director, who is sitting there, to have him  
20 introduce them, introduce the panel. Please, John.

21           MR. DULLES: Thank you, Madam Chair. On behalf of  
22 the Rocky Mountain Region and its seven advisory  
23 committees, we welcome you to New Mexico. The Land of  
24 Enchantment. Some people call it Lobo land, and it's the  
25 newest acquisition to our regional operations in Denver.

1 Our region now extends from Chihuahua, Mexico, to  
2 Winnipeg, Manitoba, Canada. Well, almost.

3 I would first like to congratulate Commissioner  
4 Jennifer Braceras on the joyous occasion of the birth of  
5 her daughter, Gabrielle.

6 I would also like to advise you that in addition  
7 to our chairs, we have with us several advisory committee  
8 members from New Mexico. They are James Nez, Bishop  
9 Ricardo Ramirez, John Binkley, and Dale Carmichael. And  
10 Valerie Webb. I'm sorry. We have another additional.  
11 Valerie Webb Jaramillo from Albuquerque. Thank you.

12 In the next few minutes, you will be hearing from  
13 our advisory committee chairs. Yesterday we engaged in a  
14 highly productive dialogue and a planning exercise  
15 designed to determine issues of commonality in the  
16 increasingly complex area of human rights challenges in  
17 the west.

18 You will also be hearing presentations today from  
19 American Indians and civil rights leaders in new Mexico  
20 and the Southwest. We are grateful for their  
21 participation and we look forward to an informative and  
22 enlightening discussion.

23 In 1972, the United States Commission on Civil  
24 Rights held hearings in Albuquerque and Phoenix on issues  
25 affecting Native Americans, specifically employment,

1 education, health services, the administration of  
2 justice, and water rights. And you produced a report  
3 which finds that there was a tremendous neglect that  
4 could hardly be called benign.

5         Soon thereafter, the Commission traveled to Window  
6 Rock, Arizona, to look at problems confronting the Navajo  
7 Nation in its efforts to develop an economic base.

8         In 1974, the New Mexico Advisory Committee held  
9 hearings in Farmington, New Mexico, in northwestern New  
10 Mexico, at a time of greatly heightened racial tensions  
11 between the white community and Native Americans, largely  
12 emanating from the brutal mutilation murders of Navajo  
13 men by white high school teenage students.

14         At this time, during this time the Commission had  
15 no Native American members. The New Mexico Advisory  
16 Committee and the Arizona Advisory Committee petitioned  
17 and passed resolutions calling for this omission to be  
18 remedied. This oversight was not corrected for another  
19 quarter of a century. But we are delighted that upon your  
20 return to this community, Elsie Meeks, Oglala Sioux from  
21 Kyle, South Dakota, finally is a member of this  
22 prestigious body and that is an important achievement.  
23 (Applause.)

24         Finally, I will share with you that in 1977, the  
25 New Mexico Advisory Committee produced a handbook for

1 parents, for students, for communities, entitled,  
2 "Working with your school." 1977. I'm an old-timer. It  
3 contains a chapter on the New Mexico educational system.  
4 The author of the chapter? A professor at the University  
5 of New Mexico School of Law by the name of Cruz Reynoso.  
6 We are proud to this day not only of this report but of  
7 the willingness of a now vice chair of your Commission to  
8 make such a valuable contribution to the work of our  
9 advisory committee, to the Commission, and especially to  
10 the citizens of New Mexico. (In Spanish), Commissioner  
11 Reynoso. Thank you, Madam Chair, distinguished  
12 commissioners.

13 COMMISSIONER REYNOSO: You are a historian.

14 MR. DULLES: I have got more.

15 COMMISSIONER BERRY: Now, what we will do, first  
16 we're going to hear from Mr. Agustin of Albuquerque, and  
17 the New Mexico chair. He's the principal of John Adams  
18 Middle School in the Albuquerque Public School District.  
19 And he's had major experience on all of these issues.

20 And I want to say, by the way, that we thank all  
21 of you for the work that you do on the SACs. I just can't  
22 tell you how grateful we are, especially given all the  
23 resource constraints and the problems and the issues of  
24 not being able sometimes to do what you would like to do,  
25 and all the rest, and the frustration. There's no way to



1 express -- I can't think of the words to express how  
2 grateful I am, and I know all the other Commissioners  
3 are, that you put in time on this.

4 And I know you're committed, but there are other  
5 ways you could show your commitment, so we appreciate  
6 this.

7 So could you please proceed, Mr. Agustin.

8 MR. AGUSTIN: Thank you. Good morning. On behalf  
9 of the SAC chairs of the Rocky Mountain Region, we'd like  
10 to welcome you to our region and we are very appreciative  
11 and honored that you have chosen our region to hold your  
12 meeting today.

13 I would also like to thank you because yesterday  
14 we had a tremendous opportunity to meet as region chairs,  
15 and I will tell you, it was such an invaluable  
16 experience, I wish that every region could do the same.  
17 We were able to bond, share a lot of experiences, and  
18 most importantly, now, we have a tremendous network that  
19 we can tap into.

20 As the chair of the New Mexico State Advisory  
21 Commission, I would like to personally welcome all of you  
22 to our state, our beautiful state, the Land of  
23 Enchantment. I hope that during your short stay that  
24 you'll be able to visit some of our historical sites. You  
25 know, enjoy the culture that we have here, especially

1 enjoy our unique southwestern foods. I hope that many of  
2 you probably know the difference between green or red by  
3 now, hopefully.

4 We have just recently become a part of the Rocky  
5 Mountain Region, and since being a part of the region,  
6 we've met twice. I have recently been appointed as the  
7 chair, and have had the privilege of meeting with the  
8 State Commission once and this was in June. We're able to  
9 identify some of the issues that we would like to further  
10 investigate, and some of the issues that we are going to  
11 be looking at very closely are police community  
12 relations, dropout issues, access to health care, border  
13 issues, predatory lending, and race relations. I know  
14 that some of these will be addressed today by our  
15 distinguished panels.

16 What is our next step? We are planning to hold  
17 community meetings in early spring, either in the city of  
18 Farmington, in the northwest part of our state, or in  
19 Clovis, in the southeastern part.

20 We believe very strongly in giving our citizens  
21 the opportunity to address the issues that we have been  
22 able to identify and also to bring up any other issues  
23 that they might have, and through this process be able to  
24 really work on some of the civil rights infractions  
25 happening within our state.

1 I would like to remind the Commission that you do  
2 have a tremendous resource with the committee members  
3 here in all of our states, and we are excited and  
4 enthusiastic and willing to serve at the drop of a hat,  
5 so please take advantage of us.

6 I know that there are a lot of budgetary  
7 constraints, and one of the things that did come up  
8 yesterday was that we do have to be creative in how we  
9 conduct our meetings and how we communicate with each  
10 other, and so one of the things that we have done in New  
11 Mexico is, we have used technology and through e-mail  
12 we've been able to take care of a lot of our  
13 administrative responsibilities.

14 Finally, I would like to just thank the Commission  
15 this morning for the opportunity to address you. Thank  
16 you.

17 COMMISSIONER BERRY: Thank you, very much.

18 Ms. Barrett is our North Dakota SAC chair. The  
19 growing state of North Dakota. The population -- I have  
20 been reading stories about all the people going there for  
21 jobs and so on. She is assistant professor of American  
22 Indian Studies and Student Support Services program  
23 counselor at the University of Mary in Bismarck. She has  
24 been involved in American Indian studies at all levels  
25 and has written articles, and she serves as president of

1 the North Dakota Multicultural Association, and is a  
2 member of the Tribal Archives Task Force of the North  
3 Dakota Historical Society. Welcome, and thank you very  
4 much.

5 MS. BARRETT: Thank you, Commissioner Berry. This  
6 morning I will speak broadly about two things. Yesterday  
7 the seven chairs of our region had a joint meeting and we  
8 discussed the possibility of a regional project. And then  
9 as chair of the North Dakota State Advisory Board, I will  
10 update you some of on issues in North Dakota.

11 With the assistance of John Dulles, Malee Craft  
12 and Evelyn Bohor, who are the staff members in the Rocky  
13 Mountain Region, along with Ivy Davis, who attended all  
14 day, the chairs from the seven states comprising the  
15 Rocky Mountain Region met to discuss the possibility of  
16 involving our states in a regional study.

17 This idea has appealed to us for many reasons, one  
18 of which is that we think it might be fiscally  
19 responsible, something we know that the Commission would  
20 appreciate at least our attention to, and it helps us to  
21 concentrate limited resources in what we think would be a  
22 very productive way.

23 We feel also that a regional study would have a  
24 strong impact on our state, and it would also be an  
25 opportunity to shed some national attention on issues

1 that seemingly plague these states.

2 Some of those reports that Mr. Dulles referred to,  
3 articles on Hispanic education, still have currency  
4 today. A lot of things haven't changed in the region.  
5 North Dakota and Wyoming unfortunately just aren't  
6 headline newsmakers on a regular basis. We are convinced  
7 that we do also share common issues that cut across the  
8 states. We really do extend from the Canadian border down  
9 to the Mexican border, and yet there are many, many  
10 commonalities with issues, and civil rights issues in  
11 particular.

12 We're also convinced that among us in the states  
13 that we represent, we can tap into expertise and  
14 resources that aren't always possible with a single state  
15 report. We come from states that have one or two major  
16 universities, research is limited. In my state, one of  
17 the major universities is targeted towards agricultural  
18 research, which normally just doesn't help me out too  
19 much in civil rights issues. Stan Agustin, chair of the  
20 New Mexico SAC, led us in a collaborative discussion  
21 yesterday and through this process, which consisted of  
22 discussion, coupled with intentional listening -- which  
23 was hard with seven know-it-alls sitting around a table -  
24 - we came up with six major topic areas. All of them have  
25 significant impact and broad possibilities for a study,

1 both within and across all of our states.

2 The issues that we came up with were health care,  
3 access issues, problems with Indian health care, Medicaid  
4 impacts. People are getting pushed out of the health care  
5 providers and health care services on a regular basis.  
6 Children are being shoved out of health care at an  
7 alarming rate and so on. These are cutting across. It's a  
8 national issue in many ways.

9 Employment of minority, women, and immigrants  
10 really is a great concern in the Rocky Mountain regional  
11 area. There's a great deal of discrimination. Good-old-  
12 boys networks are prevalent in many of the states.  
13 There's pay inequities, so on and so forth.

14 We also discussed justice issues, and these are  
15 replete in this state. South Dakota issued a very  
16 powerful report on that, and there's still work to be  
17 done, we felt, in all of our states.

18 There are inordinate numbers of minorities in the  
19 system, both juvenile and adult. There's a lack of equity  
20 in sentencing, in treatment of the prisoners, racial  
21 profiling, spy files being compiled on people. Public  
22 defenders are inadequately representing clients. We had a  
23 long list of things in this area.

24 There are border-town issues that affect all of us  
25 in this states. Our particular focus on this was towns on

1 or near reservations. There are significant issues of  
2 discrimination in many areas, policing, employment,  
3 predatory loan practices, the schools' treatment of  
4 Indian youth within the public school systems, and so on.

5 Education. Montana and Wyoming have both produced  
6 reports. Montana has produced a report. I think Wyoming  
7 is still working on theirs, in terms of education issues  
8 and minority dropout rates, which are extremely high in  
9 these states. We're finding that there's discrimination  
10 against minority and immigrant youth in these states.  
11 Dropout rates are inordinately disproportionate among the  
12 minority groups. No Child Left Behind is impacting  
13 minority groups in the state already, and this is only  
14 going to increase.

15 There are problems with tests that are devised by  
16 the states and the way in which these tests either  
17 represent or don't represent information that students  
18 should have at certain ages.

19 There are issues with Title IX, which is  
20 Department of Education funding, targeted towards Indian  
21 students, as well as Johnson O'Malley funds which often  
22 seem to be misused by school districts. Bilingual,  
23 language, and English proficiency. All these came up as  
24 significant issues.

25 The other topic that we ranked rather high was

1 predatory lending. Loans for cars at just exorbitant  
2 rates is really an issue particularly with Native  
3 American and immigrant populations, and people that are  
4 just on low income budgets. Early payday loans at  
5 exorbitant interest rates. Many of our states in this  
6 region have no usury limits at all, and people are paying  
7 horrible amounts for these early payday loans. Pawn  
8 shops kind of prey on people throughout this region.

9 Ultimately, we ranked the issues and the top three  
10 concerns that emerged and seem to cut back and forth  
11 across geographical and state boundaries were education,  
12 justice, and health care. We will over the next several  
13 months be meeting with our respective advisory committees  
14 and discuss the possibility of a regional study with them  
15 and we will discuss the topics.

16 In the meantime, we do intend to continue to  
17 communicating amongst each other through e-mail and so on  
18 and try to be very creative in the ways that we continue  
19 to maintain this dialogue.

20 In terms of North Dakota, in September of 2002 the  
21 North Dakota State Advisory Committee held a hearing on  
22 the impact of 9/11 on various populations in the state.  
23 Fargo has the highest Muslim population, and it is the  
24 most diverse city in the state, and so we had our hearing  
25 there. Ivy Davis from the central office was present



1 during that, met with members. We also had orientation  
2 for new members on the State Advisory Commission.

3 We found that there were no significant issues  
4 with retaliation or other problems as a direct result of  
5 9/11 in that city. Fargo's mayor and police chief are to  
6 be lauded for that. They're very proactive and worked  
7 hard right after 9/11 to head off any particular  
8 problems.

9 Some immigrant issues about housing and social  
10 services in employment did arise, and that was to be  
11 expected. These seem to be related more to immigrant  
12 status and not religious issues. And there is a great  
13 deal of frustration with those systems.

14 In 1999 the State Advisory Committee did produce a  
15 report detailing issues with civil rights enforcement in  
16 North Dakota. Specifically highlighted was the fact that  
17 there is no human relations committee in the state.

18 This report seemed to energize people on a number  
19 of levels. The state government did resist it entirely,  
20 saying that the report didn't have enough statistics, and  
21 this and that. However, the state government did in some  
22 part respond by putting more civil rights enforcement  
23 within the Department of Labor. And the Department of  
24 Labor also sponsored a statewide forum on equity,  
25 discrimination, and racial issues last Martin Luther King

1 Day. Malee Craft from the regional office did attend and  
2 she networked with a number of officials within the  
3 state. They still have been very resistant to  
4 establishing a human rights commission.

5 However, the individual municipalities have begun  
6 to establish human relations committees. John Dulles was  
7 very integral in getting Fargo to go ahead and try out a  
8 human relations committee. Bismarck has now established  
9 one very recently, as has the city of Dickinson. These  
10 are all advisory committees set up by the mayor, but the  
11 impetus for these came from our report, and people  
12 finally had something in hand that they could use as  
13 evidence that they really needed to establish human  
14 relations commissions. Meantime, I expect other cities  
15 to develop a human relations committee over time.

16 Challenges in North Dakota. It's a big state with  
17 a small population. American Indian problems continue to  
18 be the largest issues that we find and absolutely the  
19 most frustrating in the state.

20 We're very excited about the possibility that the  
21 Commission will be looking at problems within Indian  
22 Health Services. These are major, major issues, and I  
23 definitely would like to say that I think that that's  
24 very important. And at the time we're not sure when  
25 we'll have our next meeting, but it would be very good if

1 we could have Commissioner Meeks come and meet with us.

2 Thank you. I'm sorry I went over.

3 COMMISSIONER BERRY: Thank you very much. Before I  
4 forget it, let me mention that on the resource side, it  
5 is entirely proper for you or your SAC members to educate  
6 your congressional delegation about the resource needs  
7 for your regional office so that there can be support for  
8 what you do. There's no reason for you not to do it, and  
9 whenever we talk to people, they always say, "Well, what  
10 about the people in my state? Don't you have a  
11 committee? I never hear anything from them. Are you sure  
12 they want us to do this?"

13 So there's nothing wrong with you educating them.  
14 And, in fact, it would be in the best interests of civil  
15 rights and the best interests of the kinds of work you  
16 want to do if you were to have either yourself or some  
17 people on your SAC -- or however you want to do it --  
18 take the time to educate them about the need and why this  
19 is necessary. And the example you just gave of the  
20 impact your report had on the advisory committees is, you  
21 know, a clear example and they abound in all these states  
22 of work that the committees have done that could be  
23 enhanced.

24 And also, I just wanted to say that in terms of  
25 technology, it is indeed true that there are all kinds of

1 ways you can meet. There are all kinds of ways you can  
2 connect, and we can just be imaginative and creative  
3 about that, so you can get more of the work you want to  
4 do done.

5 But anyway, thank you very much, Ms. Barrett.

6 And now Ms. Milner, who came from Salt Lake City  
7 to represent -- she's a member of the SAC, the Utah  
8 Advisory Committee. She's stepping in for Mr. Bruce  
9 Cohne, chair of the Utah SAC, who has been hospitalized  
10 and is unable to attend. We send him our heartfelt get-  
11 well wishes and hope that he has a speedy recovery.

12 Thank you for dedicating your time to come to talk  
13 to us. Ms. Milner is a community relations program  
14 manager at the Horizon Instruction and Training Center in  
15 Salt Lake City. She served three terms in the Utah House  
16 of Representatives and was more recently a member of the  
17 Salt Lake City Council and then got out of politics, huh?

18 Ms. Milner's employment -- she's been on the  
19 Governor's Commission on Women and Families, Crime  
20 Victims Council, and Governor's Commission on Childcare.

21 Thank you very much for coming.

22 MS. MILNER: Thank you, Madam Chair. I appreciate  
23 the opportunity. Even though it was short notice, I have  
24 had a very invigorating and wonderful experience being  
25 able to participate.

1           Again Madam Chair, honorable Commission members,  
2           on behalf of the Utah State Advisory Committee, I'm  
3           pleased to have had the opportunity to participate in  
4           this two-day discussion of state, regional, and national  
5           civil rights issues.

6           Utah, not unlike any other state reporting today,  
7           faces a myriad of civil rights challenges. We have  
8           received both national news and international coverage on  
9           the issues of immigration and the hypergrowth of the  
10          Hispanic population in our state.

11          Accompanying this, however, is the perpetual  
12          problem of racial profiling by law enforcement and  
13          subsequent problems plaguing underrepresented  
14          populations, especially ethnic minorities and people of  
15          color, in areas of education, health, the criminal  
16          justice system, and particularly the ongoing matter of  
17          employment discrimination.

18          My presence before you today is to carry forth  
19          this message and report that the Utah State Advisory  
20          Committee respectfully requests the United States  
21          Commission on Civil Rights vote to accept and validate  
22          the committee report on the Utah Anti-Discrimination  
23          Division. The tie vote by the Commission in 1997  
24          resulting in the report not being published has had a  
25          chilling -- I might reiterate, a chilling -- effect on

1 the Utah State Advisory Committee, but also on that of  
2 others experiencing the same problem, as similar  
3 procedures exist in every state. It is imperative that  
4 the Civil Rights Commission take action to accept the  
5 substantive report.

6 The project, with its conclusive findings and  
7 recommendations, was prepared by the regional staff  
8 following four years of rigorous, exhaustive study and  
9 analysis. The report is relevant today in its present  
10 status. The problem has only exacerbated in subsequent  
11 years, and is reflected and presents internal complaints  
12 recently reported.

13 I have prepared for the record some of these  
14 findings of the recent -- presently in the Utah Office of  
15 Anti-Discrimination, four of the five investigators have  
16 filed a complaint, an internal complaint, regarding  
17 discrimination. And as a result of that, the governor has  
18 asked for an independent review of the Utah Anti-  
19 Discrimination Division and says he will call upon  
20 experts in discrimination law picked from outside state  
21 government to talk with employees and look through the  
22 records and review old complaints. The problem is, the  
23 exhaustive report that was prepared was not published, so  
24 could not be used in addressing and remedying the  
25 problem.

1           Employment discrimination in Utah is the only kind  
2 of civil rights violation that you can't take to court on  
3 your own. All matters must be handled through the  
4 administrative process. Presently, 97 percent of the  
5 complaints that are filed are dismissed. 97 percent. Of  
6 the 3 percent that may succeed to go on, it's an ongoing  
7 process of over 400 days before any findings or issuance  
8 of a report. There are continuous ongoing problems, as we  
9 see the exploitation of workers presently in our state,  
10 as well as issues of discrimination, as was mentioned,  
11 against women and minorities.

12           The publication of this report is critical for the  
13 most vulnerable of protected classes to achieve fairness  
14 and the remedy of employment discrimination. Your  
15 favorable consideration in voting on this matter is  
16 appreciated. And I would also like to beg your pardon if  
17 perchance I may leave early. I have an early flight, and  
18 so I'm hopefully going to be able to hear my colleagues.

19           And I again want to reiterate the appreciation  
20 that we have established a camaraderie that will  
21 essentially help us in furtherance of the Commission's  
22 goals and mandates. Thank you very much.

23           COMMISSIONER EDLEY: When are you going to leave?

24           MS. MILNER: At 11:00.

25           COMMISSIONER BERRY: Just a moment. Thank you very

1 much. Commissioner Redenbaugh, are you still there?

2 COMMISSIONER REDENBAUGH: Yes, I am.

3 COMMISSIONER BERRY: Were you able to hear Ms.  
4 Milner from Utah, or shall I summarize what she said?

5 COMMISSIONER REDENBAUGH: No, I heard. Which point  
6 were you thinking about?

7 COMMISSIONER BERRY: She asked that the Commission  
8 reconsider a vote that we took in 1997, which concerned a  
9 report from Utah -- if I don't get this right, Ms.  
10 Milner, you correct me -- that was an employment agency  
11 report in Utah.

12 COMMISSIONER REDENBAUGH: For the State Employment  
13 Agency. I do recall the issue in very general terms.

14 COMMISSIONER BERRY: And she was asking if -- all  
15 this time has passed and that the State Advisory  
16 Committee very much wants to publish it, and that it has  
17 had a chilling effect on their efforts to get the  
18 advisory committee to function the way it should because  
19 they are concerned about whether whatever they do,  
20 whatever it is, will ever see the light of day. And so  
21 she was wondering if we would be willing to, in light of  
22 that, reconsider our actions.

23 Since you were on the opposing side of that, or on  
24 the side of not wanting to do it, as I recall -- I may  
25 recall wrongly -



1           COMMISSIONER REDENBAUGH: I think your recollection  
2 is correct.

3           COMMISSIONER BERRY: -- I would ask you if you  
4 would be willing to have us reconsider that or not.

5           COMMISSIONER REDENBAUGH: Well, I'd like to take a  
6 look at the report before I respond to that. So why don't  
7 I do that, and get back to you?

8           COMMISSIONER BERRY: Okay.

9           COMMISSIONER REDENBAUGH: The issue for me, I have  
10 to admit, is a little hazy.

11           COMMISSIONER BERRY: It's hazy for me, too, and I  
12 don't remember all the details. But I guess, is there  
13 anything that -- have you modified the report in any way?

14           MS. MILNER: No. We would ask that the report in  
15 its present status, which is now nearly six years old, be  
16 able to be published. Following its publication, of  
17 course, then the numbers can be updated based upon what  
18 the Advisory Committee would want to do on their own  
19 data.

20           But the problem still exists and, again, as I  
21 mentioned, has exacerbated and become more problematic,  
22 as now there is an internal problem, as well, and so it's  
23 a matter of we need to redress this and provide a remedy  
24 for persons who are filing a complaint regarding  
25 employment discrimination.

1           COMMISSIONER BERRY: But your point is that the  
2 data is old, since it was 1997, but you are saying in  
3 terms of clearing the decks, and letting the public see  
4 that at least it was not -- we didn't forbid publication.

5           MS. MILNER: For clarification purposes, the data  
6 necessarily talks about the procedure, which is not  
7 outdated. The numbers, perchance, as far as those who  
8 have been filing complaints, would be the only thing that  
9 has been modified. And to my understanding, it's not  
10 much of a change. But it's essentially the process and  
11 the procedure is where the problem lies.

12           COMMISSIONER BERRY: Okay. All right. Well, you  
13 have presented your idea and so, Russell, your suggestion  
14 is that we do what?

15           COMMISSIONER REDENBAUGH: Well, I want to review  
16 the issue. Did this report come before us, Mary, if you  
17 remember -- being the second oldest person here, I'm not  
18 sure, me being the second oldest -- did this come before  
19 us before or after we changed the process for SAC  
20 reports?

21           COMMISSIONER BERRY: As I remember, it came to us  
22 at a time when we were supposed to accept -- we used to  
23 say we approved SAC reports, and then we said, "No, we  
24 accept SAC reports."

25           COMMISSIONER REDENBAUGH: We changed that rather

1 substantially.

2 COMMISSIONER BERRY: We don't actually approve  
3 them. It's up to us to accept or reject them. And then  
4 we didn't want people to publish them unless we accepted  
5 them. Accepting didn't mean we agreed with them.

6 COMMISSIONER REDENBAUGH: Right. But I think our  
7 acceptance is predicated, as you were pointing out, not  
8 on our concurrence but whether the process of preparation  
9 was followed.

10 COMMISSIONER BERRY: Or something like that, yes.  
11 And before that, we would talk in terms of whether we  
12 approved, before the --

13 COMMISSIONER REDENBAUGH: That's right.

14 COMMISSIONER BERRY: -- whether we approved what  
15 was in it.

16 COMMISSIONER REDENBAUGH: But my objection was to  
17 the process. I would still have that objection.

18 COMMISSIONER BERRY: Do you remember what we  
19 objected to, Ms. Milner?

20 MS. MILNER: At the time, Madam Chair, I was not on  
21 the committee, but I do know that John Dulles and Malee  
22 Craft, who, of course, prepared the report, did, I think,  
23 exhaustive research, study, and analysis for the findings  
24 and recommendations, and it was a four-year process.

25 COMMISSIONER BERRY: I'm asking John Dulles if he

1 remembers what it was we objected to, or whoever  
2 objected, whatever it was they objected to.

3 MR. DULLES: I'm hazy, but not quite as hazy,  
4 because it was our office that did the work. As I  
5 recall, we did follow the proper procedures, and did  
6 receive legal clearance from the Office of General  
7 Counsel and from the Office of Staff Director. And as I  
8 recall, there was some language in the record of the  
9 transcript of the Commission meeting to the effect that  
10 there were some objections to the tone of the report, and  
11 some sense that possibly it was too harsh in its  
12 language. That is my recollection. I would have to check  
13 the transcript.

14 COMMISSIONER BERRY: Oh, yeah.

15 COMMISSIONER REDENBAUGH: I'd like to check the  
16 transcript, as well, and refresh my memory. Let's do that  
17 --

18 COMMISSIONER BERRY: Okay. All right.

19 COMMISSIONER REDENBAUGH: -- before we commit to  
20 anything.

21 COMMISSIONER EDLEY: Madam Chair, for those of us  
22 who aren't as old as you and Russell, I'd just like a  
23 chance to see the report, if that would be okay.

24 COMMISSIONER BERRY: Of course not. You can never  
25 see anything. I'm only kidding. Obviously.

1           COMMISSIONER REDENBAUGH: And you can't talk to me  
2 about it.

3           COMMISSIONER BERRY: Obviously, you can see it. And  
4 obviously, why don't we promise Ms. Milner that we will  
5 review it at our next meeting, the issue at our next  
6 meeting?

7           MS. MILNER: Thank you, Madam Chair.

8           COMMISSIONER BERRY: And come up with a conclusion.  
9 Why don't we at least promise that?

10          MS. MILNER: Thank you. We appreciate that.

11          COMMISSIONER BERRY: Keep in mind, Ms. Milner,  
12 we're not interpreting whether we agree with the  
13 substance of the report, but whether or not we accept it  
14 as having been done the way procedures say we have to do  
15 it, so that they can publish it if they want to. That's  
16 basically the question.

17                 So we will do that at the next meeting. We'll  
18 make this consideration. All right, thank you very much,  
19 Ms. Milner.

20          COMMISSIONER REDENBAUGH: Thank you Ms. Milner.

21          COMMISSIONER BERRY: Now we have Mr. Phillip  
22 Caldwell, who is a mountain man from Montana, and is the  
23 Montana SAC chair, long-time resident of Great Falls,  
24 where it's cold, except not as cold as in International  
25 Falls, I guess, in Minnesota.

1 He's the founder and past president of the NAACP  
2 chapter in Montana, and he's a board member of the  
3 Customer Service Panel of the Montana Power Commission,  
4 and a member of the City of Great Falls Equal Opportunity  
5 Housing Commission.

6 Welcome again, and thank you very much for coming.  
7 The last report I think you did was on -- was it on  
8 immigrant children and children in the public schools?

9 REVEREND CALDWELL: Native American.

10 COMMISSIONER BERRY: Native American children in  
11 the public schools. I knew it was on children. Yes, go  
12 right ahead.

13 REVEREND CALDWELL: Thank you, Madam Chair.  
14 Protocol having been established, all those in protocol  
15 and those I don't know to call.

16 In 1996, we proceeded on a project which dealt  
17 with education of Native American children in the state  
18 of Montana. The final report was published in July of  
19 2001. There are nine recommendations in that report. A  
20 copy of that report is available on the table outside.  
21 This is the report. The findings and recommendations are  
22 outlined on pages 57 through 62. My presentation won't  
23 be very long.

24 As a result of this report, a meeting was held in  
25 Browning, Montana, in February of 2002, and an additional

1 meeting was held in July of 2002. And it revealed the  
2 gravity of the dropout rates among Native American  
3 students. The 1998 freshman class at Browning, Montana,  
4 consisted of 234 students. The graduating class, that  
5 graduating class of 234 students in July and May of 2001,  
6 there were only 72 of those 234 students.

7 . That's indicative of the dropout rate in the  
8 entire state of Montana among Native American students,  
9 the reasons being that there's very little requirement  
10 for teachers to understand the culture of the Native  
11 American population. They don't have to participate in  
12 any kind of college studies relative to their culture or  
13 training or the teaching, and therefore the major  
14 portion, the major numbers of teachers in the Native  
15 American communities in Montana are Anglo and they have  
16 no idea of the culture of Native American students. So  
17 as a result, we have a large dropout rate in the state of  
18 Montana.

19 As a result of those two meetings, this subject is  
20 a major item of concern for the legislature, which  
21 convened on January 6th. Now, I don't mean to imply that  
22 anything is going to be done, because we have been doing  
23 this for 20 years, revisiting the project. It is my  
24 prayer and my hope that we will get something done this  
25 time. Enough said on that.

1           One of my primary focuses now in the state of  
2 Montana, particularly in Great Falls, deals with the  
3 actions of public pretenders. I believe I said that  
4 wrong. I should have said public defenders.

5           Their focus is always plea bargain, high bail  
6 amount set for minor offenses or what I consider minor  
7 offenses. A major portion of the population in prison or  
8 in jail are minorities, and public defenders exert very  
9 little effort to either see their clients or bring their  
10 clients before courts of trial where they may be  
11 exonerated.

12           In 1998 I talked to three public defenders. None  
13 of them had ever tried a case that was not a murder case  
14 or something of that nature, yet they had participated in  
15 over 500 cases.

16           Recently a young lady was placed in jail with a  
17 bail amount of \$50,000 for an offense. Forty-eight days  
18 later she was still there. Prosecutors had the bail  
19 reduced from \$50,000 to \$2,500, but the paperwork never  
20 got out of the public defender's office to the Court to  
21 have her released. Forty-eight days later she was still  
22 there.

23           So my project, as I propose it, for the next  
24 meeting of the Montana State Advisory Commission would be  
25 to study the actions of public defenders. I thank you



1 for your patience.

2 COMMISSIONER BERRY: All right. Thank you very  
3 much. Now we have Mr. Marc Feinstein.

4 COMMISSIONER REYNOSO: Could I just comment that  
5 in the matter of public policy, simply having an issue  
6 recognized as an issue, I believe, is very important.  
7 It's really the first step to any possible solution,  
8 whether or not politically it takes place. So I think  
9 that your report, in terms of taking an issue that was  
10 largely ignored and then making it a public issue itself,  
11 I think has been a quite remarkable accomplishment on the  
12 part of the Advisory Committee.

13 COMMISSIONER BERRY: Okay. and I thank you,  
14 Reverend Caldwell. But I want to say, too, as we go to  
15 Marc Feinstein, that his SAC, too, has done remarkable  
16 work. He's a private attorney with Hughes Law Offices in  
17 Sioux Falls. He's on the editorial advisory board of the  
18 Sioux Falls Argus Leader, involved in March of Dimes,  
19 Rotary, Boy Scouts, PTA, everything that's worth being  
20 involved in.

21 And that SAC did such wonderful work on the  
22 administration of justice issues around Native Americans,  
23 and we went there, Commissioners, to that meeting, and  
24 Native Americans came from all over the state, Indians,  
25 came from everywhere, to come there.

1           We were one of the biggest -- even though Governor  
2 Janklow denounced us everywhere -- he called me  
3 everything but a child of God -- the ramifications of  
4 that study -- it's just like what you were telling us  
5 about, Ms. Barrett, about the Advisory Committees and  
6 some of the work the rest of you -- what you just told us  
7 about the Native American studies and the work that all  
8 of you have done, and what you want to do, Ms. Milner,  
9 with that employment study, that the reverberations with  
10 the studies that have been done.

11           I hope I'm not stealing your thunder. And all the  
12 stuff that's been happening in South Dakota and the  
13 sentencing commission getting involved and everything.  
14 You know, we're not there yet on trying to get justice  
15 for Native American Indians in South Dakota or anywhere  
16 else, but I just think it was one of the finest hours of  
17 the SAC doing its work and we were happy to be there.

18           And by the way, if any of you have projects and  
19 things you're doing in your state where you'd like to  
20 invite us to come, a particular thing that you think is  
21 important enough for us to be there, some of us are  
22 willing to come.

23           So I just wanted to say that, Marc, publicly and  
24 to thank you. Please proceed.

25           MR. FEINSTEIN: Well, thank you.

1 COMMISSIONER BERRY: What else can you say?

2 MR. FEINSTEIN: Anyway, "Native Americans in South  
3 Dakota: An erosion of confidence in the justice system"  
4 was the title of our report. Our SAC held a hearing in  
5 December of 1999, and I was very pleased and somewhat  
6 excited to have Chairman Berry present. Vice Chair  
7 Reynoso, Commissioners Meeks, Edley, and Lee were all  
8 present. And Commissioner Berry, Reynoso, Meeks, and  
9 Edley all returned when we released the report and I must  
10 say, one thing that we were really -- or I was really  
11 enthusiastic about, the fact that Chairman Berry said 90  
12 days the report would be released, or would be completed,  
13 and -

14 COMMISSIONER BERRY: You didn't believe me, did  
15 you?

16 MR. FEINSTEIN: It wasn't that I didn't believe  
17 you. It happened, and we are grateful for the efforts  
18 that the staff in D.C. made, grateful for the regional  
19 staff for getting the report out.

20 That played a big part in the timeliness of  
21 getting that issue out. I think that was wonderful.

22 What prompted this? In 1999 there were racial  
23 tensions that were quite heightened due to the White  
24 Plain murders in White Plain, Nebraska.

25 White Plain is a city that sells over 2 million

1 cases of beer a year. It's right on the border of South  
2 Dakota, Nebraska, and it's just right south of the Pine  
3 Ridge Indian reservation, which is a dry reservation.

4           Anyway, there were two murders that had been  
5 unsolved, claims by the Native Americans on the  
6 reservation that the FBI just wasn't being aggressive.  
7 Boo Many Horses, a 22-year-old mentally handicapped  
8 Native American individual, was found upside down dead in  
9 a garbage can in an alley in Mobridge, South Dakota. The  
10 perpetrators, who pretty much admitted they did it, were  
11 released by the judge as not being a criminal act.

12           Rapid Creek, a little river that runs through  
13 Rapid City, South Dakota, there were eight mysterious  
14 deaths. Six were Native Americans. The crimes have never  
15 been solved and again, claims that law enforcement just  
16 wasn't doing their job.

17           This is what prompted our hearing. And what  
18 happened, what came out of that, I think as Chairman  
19 Berry alluded to, we had law enforcement, we had FBI, we  
20 had the BIA superintendent, we had local law enforcement,  
21 tribal law enforcement and community members speak to us  
22 and speak with us, and well over 100 people testified.  
23 We started at 10:00 in the morning and went until  
24 midnight. Regional staff was taking oral testimony, one-  
25 on-one, with individuals.

1           What came out is that there was a strong  
2 perception that there was a dual system of justice that  
3 race was a factor. Crimes against natives by whites were  
4 investigated with less vigor than those crimes by Indians  
5 against whites.

6           Racial profiling. Sounds interesting. The  
7 governor came out and said, "No, there isn't racial  
8 profiling." And within a week after he said that, down in  
9 the Yankton Tribe, the sheriff down there said, "Yeah,  
10 we're targeting every Indian car that comes off the  
11 reservation to check for past warrants."

12           I was, like, "Okay."

13           FBI, we found out in the hearings, was mistrusted  
14 by the Indians. They had a lack of confidence in the FBI  
15 since the Wounded Knee skirmishes in the 1970s. And this  
16 is what came out. Just a long history of distrust and  
17 widespread perception that state and local law  
18 enforcement, prosecutors in the courts were not treating  
19 the Indians and the Native Americans in an equitable  
20 manner, even to the point of being adversarial.

21           I'm sure, as Professor Reynoso even stated, when  
22 he came back as we released the report, the expressed  
23 feeling of hopelessness and helplessness in Indian  
24 country just cannot be overemphasized.

25           In any event, we made several recommendations, one

1 that Janet Reno would appoint a task force to address the  
2 crisis; bring together tribal, state, and federal  
3 officials to develop a plan of strategies to rebuild the  
4 confidence that was necessary to accomplish what really  
5 had to happen in Indian country.

6 We asked for research to determine if this bias  
7 existed. We heard these perceptions. We understood they  
8 were stories, and they weren't under subpoena, but we  
9 didn't know where in the spectrum this all fell, so we  
10 made that recommendation.

11 Among other things, we asked the governor of South  
12 Dakota to initiate steps to build collaboration with the  
13 Indians' confidence and respect and improved  
14 communication. We asked the governor to call a summit.  
15 And I want to play a tape of the governor's reaction on  
16 South Dakota Public Radio. I wanted to -- after the  
17 release of the report -- I know this tape recorder is  
18 small. I hope everybody can hear, because it sets the  
19 tone of what we're dealing with in South Dakota.

20 "I'm going to -- I'm going to -- I'm going to play  
21 the games that these people are playing. They're not  
22 interested in substance. They're not interested in racial  
23 harmony. They're not interested in (unintelligible)  
24 turmoil and finger-pointing and name-calling and I'm  
25 going to accommodate them."

1 Then the reporter went on to ask the governor --

2 COMMISSIONER BERRY: Tell us all the names he  
3 called you. Go ahead.

4 MR. FEINSTEIN: Then the reporter went on to ask  
5 the governor his reaction to the report. The governor  
6 said, "Well, I haven't read the report. I don't read  
7 garbage."

8 That's what we're dealing with. In any event,  
9 since then, you heard about the racial profiling that  
10 actually did occur that was public after that. The  
11 governor did commission a study with two professors at  
12 the University of South Dakota to come up with some  
13 numbers. Has that been passed out? Okay.

14 If you look at that packet that you have, it's  
15 taken in reverse chronological order. Go to the second-  
16 to-last page and if you'll look at the headline, this  
17 came out in October, the fall. The report was finally  
18 smoked out by the largest paper in the state, the Argus  
19 Leader. "Indians endure disparity of justice."

20 The governor said, no, it didn't exist. It does.  
21 You look down at the second paragraph. "Indians charged  
22 with felonies more likely than white defendants to be  
23 forced into plea agreements and be denied bond."

24 Go to the immediate next page in the bottom of the  
25 second column. This is an op-ed piece by the editorial

1 board of the Argus Leader. "We know now for a fact that  
2 there are differences on how Indians and non-Indians are  
3 treated in our criminal justice system."

4 I guess it proves out the work we do and have done  
5 with the assistance of the Commission has produced an  
6 impact. In addition to the State doing this, the FBI has  
7 made a much higher profile and become a lot more public  
8 and I believe, hopefully, they're regaining some of this  
9 lost trust that they had. They have organized groups  
10 down in Wagner, South Dakota, to meet monthly with  
11 community leaders, Native American leaders and the FBI,  
12 and I think it is hopefully helping, and I think it's a  
13 direct result.

14 Janet Reno issued a report to answer a lot of us.

15 First she commended what we did, and then she said,  
16 well, we were already doing a lot of things. Well, a lot  
17 of things in the report -- in fact, on page 14 you look  
18 at our -- not in her report, Janet Reno's report -- there  
19 are actually things that happened, I believe, as a result  
20 of our report. The Bureau of Justice Statistics report  
21 was going to be issued in July, several months after our  
22 report, I think as a direct result. And as Chairman  
23 Berry did say, too, the U.S. Sentencing Commission showed  
24 up in Rapid City for a hearing in June of that year, I  
25 think again as a direct result of our report.



1           But again, I think our work can be assisted a lot  
2 by your help and assistance and resources in the regional  
3 office, and the timeliness -- at least in this case, the  
4 timeliness was everything. I think that 90 days -- it  
5 made it timely. People could relate to it. They could  
6 remember it. We are not going to cure everything with  
7 this report, but we think it makes a good step in the  
8 right direction. Thank you.

9           COMMISSIONER BERRY: All right. Thank you very  
10 much, Marc. Keep in mind, as we do our work -- and  
11 sometimes it is frustrating -- that when people tell us -  
12 - like when we first went to South Dakota, they said,  
13 "All you're going to do is another study and nobody is  
14 going to even follow up."

15           And we had to inspire some confidence that we  
16 would -- when I said 90 days, it would be 90 days, and  
17 that we would stay out there and take whatever hits came  
18 to us and keep pressing this. And we may at some point  
19 have to go back there again, or the Commission may. But  
20 we thank you for this.

21           COMMISSIONER REDENBAUGH: Excuse me. Before I  
22 leave, I wanted to say, it's been very satisfying to hear  
23 this, particularly this last presentation, as a  
24 confirmation of the effectiveness of the Commission and  
25 the work you all did when you went to South Dakota. I'm

1 very glad I had a chance to hear that. Thank you.

2 COMMISSIONER BERRY: Okay. Thank you very much,  
3 Russell.

4 COMMISSIONER REDENBAUGH: 'Bye.

5 COMMISSIONER BERRY: Mr. Goto is the owner of the  
6 Wellshire Inn in Denver and chair of our Colorado State  
7 SAC Committee. He's a quite prominent Asian American  
8 business and civic leader, trustee of the University of  
9 Denver. He's a former White House appointee to the Civil  
10 Liberties Public Education Foundation, and has been  
11 active for many years in JACL, the Japanese American  
12 Citizens' League. We are very grateful to you for the  
13 work that you do. Please proceed.

14 MR. GOTO: Thank you very much, Madam Chairman.  
15 Those are fancy words for a saloonkeeper.

16 The Colorado committee has been active in holding  
17 town meetings through three metropolitan areas in the  
18 state, Fort Collins, Pueblo, and Grand Junction. And the  
19 format for the town meetings is the city authorities, the  
20 leaders of the community, speak on the first day in a  
21 panel-like set-up. The second day we heard from the  
22 citizens, or the second half, the activists in the  
23 community.

24 During these hearings, after our hearings, it  
25 seemed quite obvious that in various ways very subtle and

1 some ways not too subtle, harassment and discrimination,  
2 both verbal and physical, is very active in our state.  
3 It was quite surprising to a lot of us on the committee,  
4 and we did turn around to the locals that were present,  
5 and we did this when they said, "We told you so," and we  
6 were trying to raise the profile of our activities  
7 through more active, proactive, media relations.

8 I think John Dulles in the office has done a  
9 remarkable job. Especially after our Grand Junction  
10 meeting, we were on the local television news, as well as  
11 not only Grand Junction, the western slope newspapers,  
12 but the major metropolitan Denver area newspapers.

13 The problem that we seem to run into is resistance  
14 from the local bureaucracy and law enforcement. They are  
15 almost condescending in their -- "Why are we here?  
16 Everything is wonderful in our community. We've got  
17 everything under control. We're doing the jobs that  
18 we're paid to do."

19 But again, as was alluded to earlier, the good-  
20 old-boy network. "Don't bother us. We're taking care of  
21 our problems. We don't need a human relations, community  
22 relations type of aspect."

23 I wish they would look to Denver, where the  
24 community relations aspect seems to be doing very well,  
25 although our recent police scandal with the spy files on

1 active citizens is still hitting the paper.

2 Briefly, the compliance on ethical issues that are  
3 so prevalent in our rural communities, the small towns,  
4 et cetera, where the proprietary -- the material aspects  
5 draw strong lines in color. That's one thing that we're  
6 very concerned about. But again, the citizenry seems to  
7 be very much willing to listen to our reports. And  
8 contrary to my status and perhaps John Dulles' status, we  
9 have a much younger active committee now that's coming on  
10 board and, boy, are they articulate. They are not  
11 bashful at all. So that's all I have got to say. Thank  
12 you very much for your help.

13 COMMISSIONER BERRY: Thank you very much.

14 And then at the end, we have, last but certainly  
15 not least, the state of Wyoming. Ms. Morris is a member  
16 of the Oglala Sioux Indian tribe and is our Wyoming SAC  
17 chair. She is the Underserved Communities Coordinator  
18 for the Wyoming Arts Council, which is in Cheyenne.  
19 She's been a businessperson -- "bidness," as we say in  
20 Nashville, Tennessee -- prominent member of the Wyoming  
21 business community for over 19 years. She co-owned and  
22 managed a wholesale petroleum products company and two  
23 retail outlets. She is co-chair of the Urban Native  
24 American Program, a statewide organization funded by the  
25 Wyoming Department of Health, and member of the Minority

1 Health Board.

2 Thank you very much for your work. Thank you very  
3 much. Please proceed.

4 MS. MORRIS: Thank you, Madam Chair. I appreciate  
5 this opportunity to tell you what's happening in Wyoming.  
6 We are currently studying the high dropout rates of  
7 minority students and we've held three community forums,  
8 and we are working hard to raise the awareness level in  
9 the Department of Education and in the local school  
10 districts, raise their awareness to the problems of  
11 minority dropout rates.

12 Our superintendent of schools just recently  
13 released a report on the graduation rates and the Native  
14 American rate is at 47 percent. The Hispanic rate is at  
15 59 percent. Our State Advisory Committee has a real  
16 problem with this, and so we're hoping to continue  
17 investigating and to prepare a report on this for your  
18 body.

19 Some of the problems we see with education in  
20 Wyoming are the standardized tests. They are not geared  
21 towards minority students. They are geared to a  
22 different economic level, status of students, different  
23 culture. They do not take into consideration the  
24 children that have had a focus on vocational ed.

25 Then we see a problem in the lack of our --

1 underrepresentation of minority teachers and  
2 administrators. So we're encouraging school districts to  
3 also be aware of that, that they need to look at that.

4 One of the major concerns in Wyoming that just  
5 came to light like the first part of December, and it's  
6 sort of put the whole state on edge, is the announcement  
7 that the White Supremacist World Church of the Creator is  
8 moving its headquarters to Riverton, Wyoming, which is a  
9 small town located in central Wyoming on the Wind River  
10 Indian Reservation.

11 Some of the fears that we have is that this is  
12 going to result in an increase of hate crime. In fact,  
13 the local church leader works for the Wyoming State.--  
14 he's a caseworker for the Wyoming State Corrections  
15 Department. He learned of the church and joined after  
16 learning about the church from an inmate. So this is  
17 kind of scary.

18 But we're concerned there will be an increase in  
19 hate crimes and minority arrests and convictions. We're  
20 concerned that the children are going to be recruited  
21 into this. And we're also concerned about the effects it  
22 will have on the local facilities, the jails, the courts,  
23 the justice system.

24 Already there has been a report of a student at  
25 the University of Wyoming writing a letter to the student

1 newsletter encouraging whites to band together to stop  
2 the encroachment of minorities into the University. This  
3 is also related to the concerns we have about 9/11  
4 backlash for how it's related to immigration, immigrants,  
5 people of color, migrants, you know, all of these. We're  
6 fearful that these are going to have very negative  
7 impacts on the people of Wyoming.

8 Wind River is the home of the Eastern Shoshone and  
9 the Northern Arapaho, and we're concerned with the fear  
10 that these people are experiencing with this Church of  
11 the Creator coming to town. In addition to all of the  
12 other racial profiling and injustices that are already  
13 there, it's very worrisome.

14 A concern in Wyoming is that we have no Human  
15 Rights Commission at the state level. There is no one  
16 there, other than the Advisory Committee, to speak for  
17 disenfranchised groups. We have the ACLU, we have the  
18 NAACP, but on a state level there is no Commission. We  
19 did have an Indian Commission, but it's been inactive for  
20 the past eight years because the governor has not seen to  
21 fund the Commission.

22 We have concerns about the high unemployment rate  
23 of minorities and women. The wage disparity. Wyoming is  
24 last in the effort to bridge the gap between men's and  
25 women's wages.

1           We're concerned about other issues like teen  
2 pregnancy rates, single family issues, the staggering  
3 domestic violence problem, the high cost of health care  
4 and of day care.

5           We are very glad to see that there will be a study  
6 on the Indian health service issues. This is an area  
7 that needs to change. And I'd like to thank you for  
8 giving me this opportunity again.

9           COMMISSIONER BERRY: Thank you very much. Ms.  
10 Morris, do you know why the white supremacist -- whatever  
11 -- Church of the World -- where they moved from, and what  
12 made them go to Riverton? What is the attraction there?  
13 Where did they come from?

14           MS. MORRIS: They came from Illinois. That's  
15 where their headquarters were, and they had just been  
16 involved in a lawsuit over their name --

17           COMMISSIONER BERRY: Oh, yes.

18           MS. MORRIS: -- and using it on the publication of  
19 their materials. They came to Wyoming partly because  
20 there is a man in -- well, there's a leader, a past  
21 leader, of the church that is a rancher up near Billings,  
22 I believe by the name of Stanton.

23           COMMISSIONER BERRY: Billings, Montana?

24           MS. MORRIS: Yes. And Reverend Caldwell was  
25 telling us how they handled them up there, and we're



1 going to look to his advice on doing something in  
2 Wyoming.

3 COMMISSIONER BERRY: And your state Human Rights  
4 Commission, the absence of one.' I don't remember whether  
5 your State Advisory Committee has ever done a report on  
6 that or not.

7 MS. MORRIS: No, we haven't.

8 COMMISSIONER BERRY: Because we were just in  
9 Mississippi a few months ago, where they don't have one,  
10 either. And we were talking to the governor. We met  
11 with him around the State Advisory Committee's report in  
12 which they have been insisting that they have one. The  
13 governor promised -- we don't know if it's going to  
14 happen -- that if the legislature didn't enact one in  
15 this session, he would issue an executive order to try to  
16 create one down there, as a result of our coming and  
17 pleading with him.

18 But maybe you ought to consider whether you want  
19 to do, along with everything else you're doing, some kind  
20 of report or statement or something urging the  
21 Commission.

22 MS. MORRIS: We did look at this a bit with our  
23 study into the high unemployment of the -- the employment  
24 practices of minorities and women in state government. We  
25 did look at that at that time. But there was no actual

1 report. We did discover that various departments had  
2 varying degrees of affirmative action plans. Nothing was  
3 uniform. And I imagine we could start with the  
4 information we found in that report.

5 COMMISSIONER BERRY: Yes. Cruz.

6 COMMISSIONER REYNOSO: Madam Chair, I think it's  
7 the head of the Church of the Creator who's just been  
8 charged with collaborating with some others in an effort  
9 to murder a federal judge. So if that conviction takes  
10 place, why, then, maybe you won't have a problem.

11 COMMISSIONER BERRY: We'll see. Okay.  
12 Commissioner Edley.

13 COMMISSIONER EDLEY: I just want to say since  
14 there has been some discussion about dropout rates -- and  
15 I'm not sure what all you were planning in terms of the  
16 possible focus for a regional initiative -- that this  
17 issue of disparities in dropout rates and what might be  
18 done about it is obviously hugely important.

19 And I just want to urge you to think about two  
20 things. One is that the data on high school dropout  
21 rates that is typically reported by school districts and  
22 states in almost all circumstances dramatically  
23 understates the magnitude of the problem. Looking at the  
24 size of the cohort, say, the number of students in ninth  
25 grade versus the number of people getting actual high

1 school diplomas, the kind of approach that Reverend  
2 Caldwell indicated is one strategy for doing it, but  
3 there are lots of problems with the data.

4 So if you do look at that, whatever you do, don't  
5 take as truth whatever data are being presented by the  
6 districts. There are many places in the country, for  
7 example, where they don't call somebody a dropout unless  
8 they actually have a signed piece of paper by the student  
9 and the parent indicating the intention to drop out. So  
10 that if a student just happens to disappear and stop  
11 showing up, they won't count that as a dropout because  
12 maybe they just transferred or maybe they moved out-of-  
13 state or maybe they moved to the reservation school or  
14 maybe they did X, Y, and Z. They don't know, and  
15 therefore they won't count it as a dropout. So it's  
16 clearly a problem.

17 The second thing, if you pursue this, is while  
18 it's absolutely right that we need to focus on high  
19 school graduation rates, because that's like getting on  
20 the ladder of opportunity, I think we also need to start  
21 upping the ante and being clear in all of our public  
22 policies that moving into the 21st century, while we want  
23 to get some equity with respect to completion of high  
24 school, what's really going to be required in the 21st  
25 century is postsecondary education so that the

1 disparities in terms of college-going and college  
2 completion are things that we need to start focusing  
3 additional attention on, as well.

4 COMMISSIONER BERRY: Okay. All right. Thank you  
5 all again for your work, and we look forward to either  
6 being in your state or working with you. And don't  
7 forget what I said about educating your representatives  
8 about the work that you do. I think that's important,  
9 too. Thank you very much.

10 And while we are having the next panel come  
11 forward, which will be on American Indian issues in the  
12 Southwest, I want to point out that in response to a  
13 statement that was in, I think, the New York Times, an  
14 op-ed piece about school desegregation the other day,  
15 which --

16 COMMISSIONER EDLEY: George Schultz.

17 COMMISSIONER BERRY: -- which was done by George  
18 Schultz, a former cabinet member, in which he appeared to  
19 be giving President Nixon all kinds of credit for  
20 accelerating school desegregation, I want to point out  
21 that the Commission has several reports and statements in  
22 a 1982 report, a 1981 report, and one done 20 years after  
23 Brown which gives the lie to that and points out that  
24 there was a withdrawal from a national commitment to  
25 civil rights progress, especially in the area of school

1 desegregation at that time.

2 I just wanted to point that out for the record and  
3 say that what we probably will do is excerpt some of the  
4 materials from the staff, excerpt some materials from the  
5 Commission policy statements and report, and put them on  
6 our web site in case anybody is interested in the facts  
7 about what happened. Opinion is opinion. But at least  
8 those are facts.

9 **VIII. Panel - American-Indian Issues in the**  
10 **Southwest**

11 COMMISSIONER BERRY: We're going to have American  
12 Indian issues in the Southwest.

13 The Commission has long been concerned with the  
14 plight of this country's Native Americans and this  
15 country's Indians. Of course, each November, you know,  
16 everybody has National American Indian Heritage Month.  
17 We've had a lot of publications over the years -- not as  
18 many as we should have -- on some issues dealing with  
19 Native Americans.

20 One report that the Commission did in the 1980s on  
21 issues of fishing rights, mineral rights, and others has  
22 been a classic and has been utilized by the folks in some  
23 of the lawsuits that have been brought around the  
24 country.

25 In 2000 the Commission published "Native Americans

1 in South Dakota: An erosion of confidence in the justice  
2 system" that Marc Feinstein was talking about. We also  
3 issued a statement at the instigation of Commissioner  
4 Meeks denouncing the use of offensive sports mascots in  
5 public schools. And in 2002 we had some -- the State  
6 Advisory Committee in Alaska -- some of the Commissioners  
7 went up there and looked at Native American issues in  
8 Alaska after they had had some particularly egregious  
9 incidents involving Native American Indians and released  
10 a report called, "Racism's frontier: The untold story of  
11 discrimination and division in Alaska."

12 And if the Alaska chair had been here today, they  
13 would have told us about the repercussions of that report  
14 and how it impacted the way the justice system is being  
15 modified in that state.

16 So we have two projects. We talked about one of  
17 them earlier today. Some of you may have heard, if you  
18 were here, about the Indian Health Service dealing with  
19 Native American issues and another one on federal  
20 resources that are used. We know that the federal  
21 government has a special responsibility for protecting  
22 the rights of Native Americans. In November of last year  
23 at the National Congress of American Indians annual  
24 session, some of us met informally with Native American  
25 leaders in San Diego to talk further about the issues.

1           So let me introduce the panelists without taking  
2 all the time telling you all the stuff we've done, even  
3 though we should have done more, and can always do more.

4           First we have the Honorable Malcolm Bowekaty,  
5 former governor of the Zuni Pueblo. Mr. Phillip Sam  
6 Deloria, director of the American Indian Law Center, and  
7 Mr. Leonard Foster, who is director of the Navajo Prison  
8 Project, Tribal Office of Behavioral Health, and Ada  
9 Melton, who is president of the American Indian  
10 Development Associates, and Mr. Norman M. Ration,  
11 director of the National Indian Youth Council.

12           We're going to begin with Mr. Bowekaty, who has  
13 served as governor for the Zuni Pueblo Tribe between the  
14 years 1992 and 2002. He has also worked for the Indian  
15 Health Service that we're going to be looking at. He is a  
16 graduate of the University of New Mexico, and is a  
17 certified health education specialist. Please proceed.

18           GOVERNOR TOWEKATY: Thank you. Good morning. As  
19 we say, (not in English), which means good morning. How  
20 are you?

21           I'm going to be talking a little bit about the  
22 experiences we had endured and what we witnessed in terms  
23 of some of the issues. The two that I like to highlight  
24 for you today is on the religious practices of American  
25 Indians in the Southwest, namely the Pueblo Nations.

1 . I'm also going to talk a little bit about the  
2 economic development, the federal resources that are  
3 available or that are not available, and where tribes  
4 have to fight for some of those resources on behalf of  
5 their people.

6 The first one I will concentrate on is the  
7 American Indian Religious Act and its relationship to a  
8 lot of progress and development that is occurring in the  
9 Southwest, and I'll use one example to highlight the  
10 issues that I'm talking about, because I think to a large  
11 extent, the individual American Indian rights, their  
12 right to practice and worship as to their preferences,  
13 has sometimes taken a backseat and we try and advocate on  
14 tribal issues as tribal leaders.

15 The issue we'll be talking about today is about  
16 the Zuni Salt Lake, where it has been on the national  
17 radar screens for a lot of environmental issues as well  
18 as for the state of New Mexico. The Zuni Indian Tribe  
19 have been leading the charge against trying to protect a  
20 very sacred area for all the 19 pueblos in the Southwest  
21 as well as Navajo Nation and the two Apache nations in  
22 New Mexico.

23 It's kind of ironic, because when we look at the  
24 issue of individual civil rights, it necessarily touches  
25 upon one's practices on how they choose to worship. In



1 this particular case, the tribe has been leading the  
2 charge against the federal policies and also the state  
3 policies, and we're looking at two particular issues.

4 One is the National Environmental Policy Act and  
5 the National Historic Preservation Act, but also the  
6 Surface Mining Reclamation Act that delegates federal  
7 responsibilities to state agencies.

8 And the issue surrounds a coal mine that is being  
9 developed in the midsouthwest New Mexico, which is about  
10 75 miles due southeast of the current Zuni Indian  
11 reservation. Basically, Zuni Salt Lake is, I would  
12 probably say, a one-mile-by-one-mile section of land that  
13 had been designated in 1984 as a Zuni reservation. It's  
14 not contiguous with the Zuni Indian reservation.

15 What's significant about that is for most of the  
16 pueblos, we've been in our ancestral areas since the  
17 establishment of the United States and even preceding  
18 that, Zuni being the site when -- Hawikuh first was one  
19 of our ancient villages that the Spanish expedition first  
20 encountered the Pueblo Indians. So we have that lineage  
21 and that history.

22 The reason why the Zuni Salt Lake is very sacred  
23 for a lot of the tribes -- and I'll use Zuni as an  
24 example, how it still affects us today -- it's a site  
25 that our Zuni people make pilgrimages to as a rite of

1 passage for our young men and women. Basically, it's a  
2 way to rekindle the kinship as well as ties to the land.

3 Our young people, when they are at their rites of  
4 passage, make a trip to the Zuni Salt Lake. There they  
5 gather and have to fast before they go down there to  
6 gather salt. And when they bring the salt back, all the  
7 relatives have to purify that individual and it's a mark  
8 that allows us to continue the relationships we've had  
9 with the sacred areas.

10 The coal mine that is being proposed is actually  
11 about 12 miles away from that Salt Lake area. And the  
12 troubling part is that we have worked with the federal  
13 agencies to work within their processes to look at no  
14 disturbances of that area.

15 We have had to resort to not only the technical  
16 issues. We have had to look at the underlying hydrology  
17 of the area as well as the numerous graves, archeological  
18 sites that are within the area.

19 For our pueblo communities, we look at  
20 archeological sites as our record of our migration  
21 stories, our origin stories. As most ancient cultures  
22 know, there is a relationship between floods, between  
23 relocations, between migrations, between migrations of  
24 finding where the center of the earth is. And for Zunis,  
25 that is part of that, and we look at that as an area

1 where it's going to affect our relationships with that.

2 The significance behind the Salt Lake and as a  
3 religious issue, the Zuni tribe has worked with the All-  
4 Indian Pueblo Council to lobby against the federal  
5 policies as well as state policies. We have not really  
6 looked, focused, on the specific individual tribal  
7 members.

8 The reason why it's very critical now before you  
9 is that I don't think the Commission has done any studies  
10 on sacred areas. I think sometimes we must look at that,  
11 because when those sacred areas are desecrated or  
12 demolished, it's going to impact the religious practices.

13 We also have a similar situation in Arizona that  
14 is called the Zuni Heavens, and we have used the same  
15 tactics and the same routes to try and not desecrate the  
16 Indian rights for the Zuni Pueblo. This is a special  
17 issue, because we have about 9,000 Zuni tribal members.  
18 We have an average of about 4,000 Acoma Pueblo members.  
19 We have, on average, about 2000 Laguna Acoma Pueblo  
20 members, as well as 2000 Rainbow Navajo.

21 So it not only affects the Zuni Pueblo, but it  
22 also affects most of the tribes in the Southwest. And  
23 that is an issue that I would like to bring to your  
24 attention, that there probably needs to be a study done  
25 on that, because there are other areas that will be

1 similar to that.

2 The second thing that I wanted to talk to you  
3 about is the resources that are available for American  
4 Indians in the Southwest. One is, when we look at the  
5 issues of economic development and especially juvenile  
6 justice, tribal leaders have to work on competing  
7 priorities, whether to create new economic development  
8 activities, as well as business development.

9 Sometimes the places where we incarcerate youth  
10 are at the lowest priority, and sometimes that puts  
11 tribes in a very awkward situation where you can come in  
12 with a consent decree to close down all of those areas.

13 The drawback to that process is that a lot of  
14 those facilities have been funded by the Bureau of Indian  
15 Affairs and most of those were created about 30, 40 years  
16 ago. And so by any stretch of the codes that we have to  
17 abide by, there are not enough building space there, is  
18 not enough bunk space for all those youth to be detained,  
19 so you may have some violations of civil rights  
20 unknowingly by the Indian tribal nations themselves.

21 And when you come to this issue, then it becomes  
22 basically an issue between tribal sovereignty, where  
23 tribes have the right to monitor and protect the civil  
24 rights, as well as in the Civil Rights Act, but it's also  
25 very critical because it puts at odds the resource that

1 tribes have accessible, trying to create a taxation base  
2 that allows those public services that will allow those  
3 detention facilities to be upgraded.

4 So I would also look at this Commission to really  
5 look at that and not try to erode the tribal sovereignty,  
6 but look at the federal resources available and not  
7 available in order for tribes to truly address the civil  
8 rights of their tribal members. Thank you.

9 COMMISSIONER BERRY: All right. Thank you very  
10 much.

11 Mr. Deloria, please. I'm just reading what I have  
12 here. Why don't we just go down the list. Mr. Foster.

13 MR. FOSTER: Thank you. (Speaking in Navajo.)  
14 I'd like to share with the Commission a religious freedom  
15 and human rights struggle of the Native Americans or  
16 American Indians who are incarcerated in the state prison  
17 system.

18 For many years the paramount human rights problem  
19 of the American Indian incarcerated in the United States  
20 prison system is the inability to consistently practice  
21 his traditional religious and spiritual practices and  
22 beliefs.

23 Presently, we are engaged in Indian country in  
24 seeking increased legal protections for the free exercise  
25 of religion as important human and civil rights for

1 native prisoners. This is central and essential to the  
2 correctional rehabilitation of our native offenders in  
3 the cultural spiritual well-being of the Indian  
4 reservations to which the offenders will eventually  
5 return upon release or parole from the correctional  
6 facilities.

7 We understand and know that the Department of  
8 Justice has a trust responsibility with the Indian  
9 nations across the United States that encompasses the  
10 criminal justice obligations and has a legal obligation  
11 to protect traditional native religions, spiritual and  
12 cultural practices and beliefs.

13 The protection of tribal religion and culture is a  
14 mandate to protect a religious liberty and preservation  
15 and customs and traditions.

16 Some of the major violations include being denied  
17 equal access to sweat lodge ceremonies, which is the  
18 cleansing and purification of the mind, body, and spirit.  
19 Lack of equal access to religious and spiritual leaders  
20 for the teaching, counseling, and facilitating of the  
21 ceremonies for inmates.

22 Three, lack of equal access to the religious items  
23 and materials such as the pipe, tobacco, sage cedar,  
24 sweet grass, drum, gourd, eagle feathers, medicine bags,  
25 bundles, including willow saplings, lava rocks, and

1 proper firewood to conduct these ceremonies.

2 Denied the right to wear long hair, traditional  
3 hair style according to the spiritual and religious  
4 customs of their respective Indian nations.

5 Also, native prisoners are not permitted or  
6 provided access to cultural foods for their annual  
7 ceremonial meal.

8 Our Native Americans and Navajo inmates are being  
9 transferred to state facilities where American Indian  
10 religious practices are prohibited, and they should only  
11 be transferred to facilities where these beliefs can be  
12 accommodated.

13 In the last part here, the American Indian inmates  
14 on death row are not allowed to visit with their American  
15 Indian spiritual leaders and do not have access to the  
16 sweat lodge and the pipe for worship, including being  
17 denied their last rite.

18 I myself have worked with three American Indian  
19 prisoners who were on death row who were executed. The  
20 requests were made for their last rites being honored to  
21 use the sweat lodge so they could properly make prayer to  
22 meet their maker.

23 The discrimination and indifference, harassment,  
24 racist practices should be investigated, because this  
25 sophisticated form of spiritual castration only leads to

1 increased frustration, anger, tension, rage, bitterness  
2 and animosity if left unresolved.

3 Ignorance should not be an excuse to arbitrarily  
4 and capriciously deny the American Indian prisoner a  
5 recovery from alcoholism and substance abuse. He should  
6 be allowed to seek spiritual healing to fully address his  
7 addictive behavior that led to incarceration.

8 Ninety-nine percent of the felony arrests of  
9 American Indians are alcohol-related. It is a known fact  
10 that native prisoners who are allowed to participate in  
11 traditional religious and spiritual practices become  
12 model and exemplary inmates. These prison policies  
13 directly affect the spiritual well-being and cultural  
14 survival of every Indian nation because of the high  
15 numbers of incarcerated Indian prisoners.

16 Because of the extremely important role that  
17 spirituality plays in native culture, it is important to  
18 implement positive policies that would enable them to  
19 become law-abiding citizens upon their return to Indian  
20 communities.

21 The following state department of corrections that  
22 are not in compliance with the religious freedom  
23 provisions for American Indian prisoners are Arizona,  
24 California, Texas, South Dakota, Montana, Kansas,  
25 Colorado, Utah, Minnesota, and New Mexico.



1           So we recommend that these complaints be  
2 thoroughly investigated, rectified. The inherent  
3 spiritual and cultural rights of Indian nations and its  
4 citizens must be protected and preserved.

5           We recommend that all American Indian prisoners in  
6 United States prisons be provided access to a sweat lodge  
7 ceremony on a consistent basis. Access to a religious  
8 items and materials such as the pipe, different herbs.  
9 Access to spiritual leaders who would provide the  
10 teaching, counseling and conducting the ceremonies.

11           That Native American Indian prisoners be permitted  
12 to wear long hair according to their religious and  
13 spiritual customs. Equal access to cultural foods for  
14 their annual ceremonial meal. Hiring of native chaplains  
15 or counselors to work with the American Indians on a  
16 full-time basis.

17           Native prisoners should not be transferred to  
18 facilities where his religious practices and beliefs are  
19 prohibited. American Indian prisoners on death row  
20 should be allowed and permitted to visit with their  
21 spiritual leaders and have equal access to the sweat  
22 lodge and pipe for worship and have their last rite  
23 request approved and accommodated.

24           In conclusion, I want to thank the Commission for  
25 this invitation to provide this oral testimony, and

1 hopefully we begin a serious dialogue to create a mutual  
2 understanding and resolve these major human and civil  
3 rights problems.

4 And we also recommend that a Commission study be  
5 implemented and perhaps consider an executive order to  
6 rectify these problems. We seek the compliance and  
7 enforcement of the existing laws, the First Amendment.  
8 And lastly, a congressional hearing be done to hear these  
9 problems from our Indian leaders. And I would like to  
10 have my brother, Leonard Peltier, be released as soon as  
11 possible. Thank you.

12 COMMISSIONER BERRY: All right. We'll talk about  
13 this in a minute. Ms. Melton is enrolled in the Pueblo  
14 of Jemez, in New Mexico, and is president of the American  
15 Indian Development Associates, a 100 percent Indian-owned  
16 technical assistance, training, and research firm. And  
17 we want to thank you for coming. Please proceed.

18 MS. MELTON: Good morning. (Speaking in Navajo.)  
19 Good morning. Several issues that I want to talk  
20 about with regard to, and then youth throughout the  
21 Southwest.

22 Many of the things that have already been talked  
23 to you about, the dropout rates, are all symptomatic of  
24 things that are not available for Indian nations to  
25 address the needs of their young people, the families and

1 their communities.

2 One of the things that has already been mentioned,  
3 my Governor Bowekaty has talked about access to and  
4 practice of cultural and religious practices, and that  
5 has been further stated by Mr. Foster.

6 This starts with our very young people and their  
7 ability to be able to be taught and to be able to  
8 practice their religion is an important factor.

9 One of the things that we are needing to do in our  
10 communities is that Indian youth need to have the ability  
11 to have access to treatment that is culturally relevant,  
12 services that are culturally relevant.

13 While it's easy to say and agree that that is  
14 true, it's not the easiest thing to implement. Our state  
15 is one of the few states in the country that has allowed  
16 that kind of policy and mandated that kind of policy for  
17 all of its criminal and juvenile justice practitioners to  
18 afford that ability to happen for young people.

19 While it's on paper, it is not in practice. It's  
20 important that we take policy into practice. It only  
21 took us ten years to get that as a policy in our New  
22 Mexico Children's Code. It's probably going to take us  
23 another ten to twenty years to make that a practice.  
24 Although we're getting closer, it's not fast enough for  
25 our young people. That's one of the reasons why we have

1 children who are disproportionately represented and  
2 overrepresented in the juvenile justice system, either in  
3 their tribal systems, the state system, and the federal  
4 system.

5 Indian youth in the federal system are always more  
6 than half. Sometimes 60 to 80 to 90 percent of the youth  
7 in federal custody are Indian children. That has a lot  
8 of indictments on all governments: The tribal  
9 government, the state government, and the federal  
10 government. Because Indian youth have more rights than  
11 any children -- we have rights -- Indian children have  
12 rights as citizens of their tribe, citizens of their  
13 state, and citizens of the United States. Yet they have  
14 the least services available to them.

15 You have already heard the deplorable issues  
16 related to education and extreme numbers of youth that  
17 are dropping out, and that has a lot to do with the  
18 abilities of these three sovereigns to provide services  
19 that Indian children need to have healthy lives.

20 It's very important for the Commission to look  
21 into the way tribes are receiving funding. It takes  
22 major studies for the U.S. Government to pay attention to  
23 the funding needs the tribes have. You heard the study  
24 that was done between the Department of Interior and the  
25 Department of Justice. Through the Commission that was

1 done.

2 Well, the funding for that is going to be ending  
3 this year. For the last four years, we have been able to  
4 have tribal youth funding to at least \$12 million a year,  
5 but we don't know what the prospects are for continued  
6 funding beyond 2004.

7 We have tribal court funding at \$5 million for the  
8 last four years. We don't know what that funding is  
9 going to look like, either.

10 And it seems like every time we need to ask for  
11 more money for tribes or for continued funding, we have  
12 to tell you all the horrible things that Indian people  
13 are facing. We have to tell you again, remind the federal  
14 government again that Indian people are facing the  
15 highest rates of victimization, especially Indian youth,  
16 and if we don't turn these numbers around in terms of  
17 healthy experience for Indian people in their own  
18 communities or in the communities that they visit that  
19 are off-reservation, those numbers will not change.

20 So one of the things that's really important for  
21 us to be looking at is the ability of tribes to sustain  
22 economies that will make sure that they're able to  
23 provide the needs, the obligations that they have, and  
24 also to look at the wants for Indian children. Those  
25 three are very important.

1           We can't always just be providing the bare minimum  
2 children need. Because they have given them the bare  
3 minimum isn't getting children to be able to function in  
4 the world as they need to.

5           We do provide education, but we provide them with  
6 poorer teachers, which has a lot to do -- and has a lot  
7 of implications on the abilities and capacity-building  
8 that Indian nations need support from. We have read  
9 stories about Indian teachers having the lowest scores in  
10 performance in terms of their ability to get  
11 certifications. And that has a lot to do with probably  
12 their ability to get good-quality education.

13           I feel sorry for these teachers because Indian  
14 teachers -- my sister is a teacher, and I know how hard  
15 she had to struggle. My parents decided to put us in  
16 boarding school because the schools that we went to --  
17 the Indian schools on our reservations, or the schools  
18 located near our reservations did not teach four years of  
19 English, math, science, all the things that you need to  
20 be able to succeed in college.

21           Most Indian students and students probably in  
22 rural communities have to take remedial courses before  
23 they can just start going to regular college courses. So  
24 the quality and the ability and those opportunities are  
25 not available.

1           Capacity-building has to do a lot also with the  
2 ability to support businesses, Indian people, to do the  
3 work that needs to be done on our behalf. That was what  
4 we were talking about when we were requiring and asking  
5 and demanding self-determination. But as an Indian  
6 business, the experience I have had in the last ten years  
7 of just trying to get federal funds to do the work that  
8 needs to be done on behalf of our people, has been very  
9 difficult. I have had to look at RFPs that require us as  
10 Indian nations -- I have not ever seen this in any other  
11 RFP -- to demonstrate and to define what "conflict of  
12 interest" means.

13           In Indian country, you know, everybody's related,  
14 especially in our own Indian community. One of the  
15 reasons why I married out of my tribe was because my dad  
16 and mom were related, each half of the other. I had to  
17 go out of the community to find an Indian man to marry,  
18 which means that one of the things that we're faced with  
19 is that if Indian people are going to compete for  
20 businesses, many times we're going to be hiring and  
21 working with our own relatives.

22           To require these kinds of -- to put these kinds of  
23 recommendations or requirements, conflict of interest, in  
24 Indian-only, in Indian RFPs grant announcements to me is  
25 disparate treatment. And it's important for you to

1 understand that if you're going to have equal access to  
2 opportunities like that, that's one very sly way of  
3 making sure that the good old boy stays the good old boy.

4 And for me, it's hard for me to compete as an  
5 Indian business, a woman-owned business, one, for gender  
6 reasons, and the other because being the last person to  
7 get to the table, often we're fighting to just get  
8 through the door, and these other requirements are  
9 difficult to overcome.

10 So the last recommendation I have is that we've  
11 already passed the Buy Indian Act. The Indian Health  
12 Service follows it, the Bureau of Indian Affairs follows  
13 it. It needs to be applicable to all of the federal  
14 agencies, you know, such as the Department of Justice, so  
15 that when RFPs go out that are related to Indian issues,  
16 that Indian people are able to compete and not have to  
17 compete with the good old boys, who are going to be taken  
18 care of by the good old boys in the system.

19 Thank you very much.

20 COMMISSIONER BERRY: Thank you. Thank you very  
21 much. (Applause.) Mr. Ration is a Navajo Laguna  
22 originally from Smith Lake, New Mexico, on the Navajo  
23 Indian Reservation. He's executive director of the Indian  
24 Youth Council. He advocates on behalf of Native  
25 Americans in areas of health care, education, housing,



1 civil rights, voting, community, organization,  
2 leadership, and economic development. Everything.  
3 Please, proceed.

4 MR. RATION: Thank you, Madam Chair, members of  
5 the Commission, for giving me the opportunity to come  
6 here today to address you on some of the concerns that we  
7 have as urban American Indians.

8 And the reason I say "urban American Indians" is  
9 that much of the discussion this morning by the previous  
10 speakers were also reservation American Indians. And  
11 while we are also members of tribes, we are in the urban  
12 community, of which over 50 percent of American Indians  
13 are in the urban community. And we have some of the same  
14 concerns.

15 As a matter of fact, they're probably dual to the  
16 reservation, and sometimes we get stuck between a rock  
17 and a hard place because we come from reservations, we're  
18 members of the reservation, but we're in cities and  
19 states and it's hard sometimes to get people to take the  
20 responsibility to provide service for urban American  
21 Indians.

22 With that, I'll start my presentation. One of the  
23 areas I want to talk about is the area of education, much  
24 of which has been discussed this morning. Here in the  
25 city of Albuquerque in our public school system which

1 we've been working with there's a real lack of American  
2 Indian representation and participation in the leadership  
3 level in the public school system, leadership,  
4 governance, policies, procedures, curriculum, research,  
5 and evaluation.

6 Lack of promotion to ensure quality working  
7 environment and conditions for American Indians employed  
8 in the public school system. Lack of concern to advocate  
9 to promote the academic success of Native American  
10 students, including the ability of American Indians to  
11 acquire data regarding the academic performance of our  
12 Native American students. Consequently, our Native  
13 American students represent the highest rates in school  
14 dropout, which here is 41 percent, push-out, incompleteness  
15 68 percent, truancy, absenteeism, poor test scores and  
16 grades.

17 And because of that, you know, over 50 percent of  
18 our students in this system are failing, and there is a  
19 lot of other information that we have in terms to support  
20 this particular issue, but because of time allowance, I  
21 have other issues that I'd like to cover, but we can  
22 provide additional information.

23 The other area that I want to cover is the area of  
24 health. Nationally, there are about two and a half  
25 million American Indians, of which 66 percent live in the

1 urban setting. In fiscal year 2003, \$2.6 billion were  
2 allocated to the Indian Health Service for 2.5 million  
3 American Indians, and only 1 percent of this fund was  
4 allocated for 1.6 million urban American Indians, which  
5 amounts to about \$1,625 per Indian.

6 For fiscal year 2003, we understand Indian Health  
7 Service allocated \$29,000 for the Albuquerque Indian  
8 Hospital for primary health care for 30,000 urban  
9 Indians. This means that of the \$2.6 billion Indian  
10 Health Service was allocated, each Albuquerque urban  
11 Indian was allocated 97 cents for treatment.

12 American Indians are entitled to the best quality  
13 of health care through such legislation as the Snyder  
14 Act, which provides the necessary language to fund  
15 education, health care, and these kinds of services. In  
16 the bill, in the act, it uses the term "Indians," and  
17 does not qualify the word "Indians" as tribal, urban,  
18 half, quarter, but refers to all Indians to receive these  
19 health care benefits. And sometimes there is a big  
20 discrepancy in how those funds are allocated and why  
21 they're allocated, to whom they're allocated.

22 But we, as urban Indians, of which there are 150  
23 different tribes here in the City of Albuquerque, you  
24 know, feel that we are also entitled to these benefits  
25 because we do, as I stated earlier, belong to tribes.

1           Because of this definition, we feel as urban  
2 Indians that the allocation of 1 percent of the Indian  
3 Health Service budget is definitely a violation of our  
4 civil rights. I want to reiterate that our dollar amount  
5 as American Indians in this city is 97 cents. Further, I  
6 challenge you as committee members to try to get health  
7 care for 97 cents.

8           With this type of inhumane rationale and judgment,  
9 our urban American Indian population is faced with a  
10 process of federally based genocide because those people  
11 have no place else to go but to die on the streets. In  
12 fact, all American Indians continue to be disenfranchised  
13 by this federal government.

14           Please allow me to remind this group that health  
15 care is a human right.

16           The third issue I'd like to cover is the whole  
17 area of housing. 75 percent of urban Indians in the City  
18 of Albuquerque rent property because they either lack  
19 necessary employment, training, education, and  
20 discrimination by lending institutions to make loans  
21 available to American Indians. Many are driven from  
22 their homeland on the reservation because of federal  
23 legislation such as the Welfare Reform Act, the Work  
24 Force Investment Act, and other acts that require them to  
25 obtain employment in urban communities. This legislation

1 lacks the initiative on the part of federal government in  
2 collaboration with tribal governments to ensure adequate  
3 employment on Indian reservations, did not take into  
4 account the Indian reservations do not have employment  
5 economic development opportunities as in urban  
6 communities.

7           Essentially, this legislation, while it is still a  
8 rights of reservation Indians, the enactment of this  
9 federal legislation, in fact, strips our people of  
10 welfare support. And in this region of the country, that  
11 means of income is dependent upon water to drink, food  
12 for their animals, and when there's a drought, the impact  
13 of the climatic condition is further devastating to our  
14 people because many of them are farmers and livestock  
15 growers, and that's what they use, the livelihood.

16           When our people migrate into the cities because of  
17 this new legislation and trying times, they are forced  
18 into an unkind society that oftentimes they are not  
19 familiar with. Because of this insensitivity, this lack  
20 of compassion on the federal government, our people are  
21 forced to live in poor conditions in this society. Many  
22 of them are faced with lack of transportation,  
23 substandard housing, lack of employment, lack of health  
24 care and inadequate pay rate, which is a violation of  
25 their civil rights to live in a peaceful existence.

1           This group is highly transient. Oftentimes their  
2 children are forced to attend more than one school per  
3 year. Research studies indicate that living in this  
4 transient environment is not a conducive for human  
5 learning, not to mention the person's well-being.

6           Just the other day we heard a report that over  
7 2000 students here in the City of Albuquerque live in  
8 cars and boxes and motels and move from place to place.  
9 Trying to get them educated has been a real trying thing  
10 for the homeless children in this city.

11           The other area I wanted to cover is business and  
12 employment practice. In the 1970s the Civil Rights  
13 Commission came to Farmington to investigate unscrupulous  
14 business and employment practices in the state of New  
15 Mexico. At that time they saw fit to recommend changes  
16 in state legislation on interest and employment  
17 practices.

18           Since then, there continues to be complaints  
19 regarding the same concerns. We felt that these types of  
20 discrimination against Native Americans are violations of  
21 civil rights. Some of these discriminatory business  
22 practices are directed by some of the lending  
23 institutions who have loans for automobiles, mortgages,  
24 et cetera.

25           In the mid-1980s a lawsuit was filed against the

1 City of Albuquerque by our organization. The suit was  
2 settled by a consent decree which stated that more  
3 Americans Indians should be hired by the City. The  
4 decree stipulated the American Indian population at the  
5 time was about 3 percent of the city's population, and  
6 the goal of the decree was to hire at least this  
7 percentage of American Indians in city government  
8 positions. In addition, the decree also stipulated that  
9 American Indians should be placed in upper-middle-  
10 management-level positions.

11 To date, the City has never reached that goal.  
12 The American Indian community has been discriminated  
13 against, not only by the City of Albuquerque, but by also  
14 other public -- Albuquerque Public School system, major  
15 businesses, and other public institutions.

16 With that, I'll close with, you know, the  
17 recommendation that the Commission, based on the above  
18 information regarding civil rights violation against  
19 American Indians, especially the urban American Indians  
20 by the Indian Health Service -- we strongly urge and  
21 suggest that the Civil Rights Commission conduct hearings  
22 throughout the state of New Mexico and other states and  
23 cities that have a large American Indian population to  
24 hear further concerns and other information regarding the  
25 urban Indian community. Thank you.

1           COMMISSIONER BERRY: All right. Thank you very  
2 much. (Applause.)

3           Now we'll get to Mr. Deloria.

4           MR. DELORIA: Can't avoid it now. Thank you. I  
5 want to thank the Commission for the opportunity to  
6 participate in this panel and welcome you to New Mexico  
7 and Albuquerque, although I have only lived here 32 years  
8 and I think it's still not proper for me to welcome --  
9 I'm an outsider, as well.

10           I want to particularly commend the Commission and  
11 the State Advisory Committees for their attention to the  
12 day-to-day problems of law enforcement and administration  
13 of public services as they affect people in the states,  
14 and particularly Indian people, and for the support by  
15 the Commission.

16           I think that is hugely important, particularly for  
17 Indian people, because twice in my lifetime we have  
18 bungled things to the point of convincing the society  
19 that we're rich: Once in the 1970s, when we overstated  
20 our share of the energy market; and now when everybody in  
21 society thinks that we're all rich from slot machines.  
22 And, in fact, the vast majority of Indian people are  
23 still in the same position they were in 20 years ago, and  
24 have not benefited from this gaming. And I think it's  
25 very important, as we bungle the public relations job on



1 the national level, that this Commission keeps people's  
2 eyes on the ball with respect to the living conditions of  
3 our people.

4 I run the American Indian Law Center, which is an  
5 Indian-control policy studies organization. It's  
6 affiliated with the University of New Mexico Law School.

7 One of the things that we do is administer a program  
8 that prepares Indian students to attend law school. Our  
9 program was created by two white men, I might add. When  
10 the program was created in 1967, there were 15 Indian law  
11 students in the country and 25 Indian lawyers. There are  
12 now several hundred Indian law students at any given  
13 time, and over 3,000 Indian lawyers.

14 Several years ago, I attended an orientation  
15 session for new incoming students at the University of  
16 New Mexico Law School, and I got into a conversation with  
17 a first-year -- first-day student. He was sitting there  
18 eating a hamburger and he was kind of mumbling to  
19 himself. And I said, "What are you talking to yourself  
20 about?"

21 And he said, "I'm here from the east, and I knew  
22 things were going to be different when I came to New  
23 Mexico, but I just had a hamburger with an Eskimo," he  
24 said. "I'm going to call my folks tonight. This is more  
25 than I expected."

1           He knew he was going to run into Hispanics and  
2 maybe Indians, but he never knew the University of New  
3 Mexico was kind of the honorary law school for Alaska  
4 natives.

5           Our students have not only benefited from our  
6 priming the pump in legal education, but they have  
7 immeasurably enriched the legal education of their non-  
8 Indian colleagues over the last 30 years by bringing a  
9 totally different perspective on the law and on social  
10 problems. And I would urge, even beg, this Commission to  
11 restore the historic prestige of the Commission in  
12 helping the country understand these issues.

13           In Indian affairs, as well as in civil rights  
14 matters generally, we are no longer in an era of easy-to-  
15 understand problems. This affirmative action thing -- so  
16 much of it is people not understanding what the issues  
17 are. And I hope that you can play a role in helping the  
18 country move beyond these cartoon depictions of the  
19 issues on both sides, on both sides.

20           I came in late for your discussions, but I heard  
21 someone say something about a study you're doing on de  
22 jure discrimination in higher education. I almost leapt  
23 out of my seat. Have you found de jure discrimination  
24 anyplace in this country still? It's amazing how that is  
25 done.

1           My God, I got a yellow light already. I haven't  
2 even started to talk.

3           I heard that you were going to do something with  
4 regard to Indian Health Service, and I think that's good,  
5 although I thought that clearly your jurisdiction over  
6 federal agencies is considerably limited, although you  
7 can help describe problems.

8           If you're going to do that, echoing some of the  
9 things that my colleagues on the panel have said, I hope  
10 you will look at civil rights enforcement throughout the  
11 federal government with respect to Indians. Practically  
12 everything that I heard in the previous panels were  
13 violations of federal law of one kind or another. So I  
14 would hope that somebody could call the Department of  
15 Justice, the civil rights office in the Department of  
16 Justice, the U.S. Attorney, the FBI, and the civil rights  
17 offices in all of these departments, and say, "What are  
18 you guys doing? Everyplace we go, Indians are getting  
19 knocked around throughout the Rocky Mountain states.  
20 You're asleep at the wheel. What is going on?"

21           I hope that you will try to find a way to do that,  
22 recognizing the limitations of your jurisdictions and  
23 your powers, because so many problems can be resolved if  
24 we have the kind of access to federal assistance that we  
25 are legally entitled to.

1           There are Indian children throughout this area who  
2 are not getting services that they are legally entitled  
3 to because of state and tribal squabbles over  
4 jurisdiction. I think that's unconscionable, and that's  
5 just one other problem we have to deal with.

6           Also, in echoing something that Ada Melton said,  
7 tribal courts, terribly underfunded, are basically the  
8 engine of enforcement of a number of federal programs,  
9 including the child support enforcement act, violence in  
10 the full faith and credit provisions of the Violence  
11 against Women Act, and EPA and a number of other federal  
12 agencies, federal regulatory systems, cannot work without  
13 tribal court enforcement. And I think that it is  
14 important that these agencies kick in a share of support  
15 to the tribal courts so they can fulfill their missions  
16 in this regard.

17           Finally, one last thing. I think there is  
18 inattention to the special problem of violence and  
19 discrimination against gay and transsexual Native  
20 Americans throughout this area. We have had murders that  
21 were clearly on that basis that were relatively  
22 unpublicized. And I think this is something that we also  
23 need to look into. Thank you for your time.

24           COMMISSIONER BERRY: Let me thank all of you and  
25 give a couple of responses. As you talked, I became

1 aware that most of the recommendations that you made  
2 except for two that I can think of, we already have in  
3 progress, something that we are trying to do about  
4 whatever the issue is.

5 For example, on the issue of federal enforcement,  
6 Native American civil rights we already have a project  
7 which is underway this year doing exactly what you said,  
8 because one of the powers that the Commission has -- we  
9 have very few powers -- is to order agencies to give us  
10 information or to show up when we tell them to. And so  
11 the Office of Civil Rights Evaluation is already doing a  
12 study to get the information and do precisely what you  
13 said, Sam, on the civil rights issues.

14 MR. DELORIA: I would very much like to share  
15 whatever information is possible with that, because we  
16 run into that every day.

17 COMMISSIONER BERRY: All right. So that they  
18 should get in touch with you about that.

19 The other thing is that on the issue of Indian  
20 health, the reason why we will be holding hearings about  
21 that is Commissioner Meeks -- it was her suggestion -- is  
22 because we need to subpoena officials and information,  
23 unlike the State Advisory Committee projects that we  
24 have. So we can get a clear picture and come up with  
25 what's happening. And it may involve going to several

1 different places. We'll just have to see. So we are  
2 doing something on that.

3 There was something on the spiritual issue. We  
4 don't have any project that I know of where we're doing  
5 anything about that. Do we have one?

6 COMMISSIONER MEEKS: No, we don't. But what I was  
7 going to suggest, that we at least as a Commission, like  
8 we did with the mascot statement, write some sort of a  
9 letter in support of not only the sacred sites issue, but  
10 really the mascot statement got lots of mileage. And  
11 then the religious freedom in prisons.

12 I think that if we could write a letter that we  
13 support upholding religious freedom, in a statement. It  
14 may get some mileage. And that's just a first step, I  
15 would say. I mean, I can't even commit us to that  
16 because we have to vote on it. But on anything beyond  
17 that, we would have too. But at least that could be a  
18 first step.

19 COMMISSIONER BERRY: Commissioner Edley.

20 COMMISSIONER EDLEY: First let me say, I am going  
21 to have to leave in a couple of minutes. I'm not feeling  
22 well, and I switched my flight so I could leave a little  
23 earlier so I could get home and get in bed. In advance,  
24 I want to apologize to this panel and our next panel for,  
25 in fact, I have to leave shortly.

1           In response to Commissioner Meeks' last statement,  
2 I guess I'd like to learn a little bit more about this  
3 issue of how religious freedoms can be, should be, ought  
4 to be accommodated in federal and state prison systems.  
5 And so I very much want us to make a statement or send a  
6 letter.

7           But I'm wondering whether we might not be able to  
8 write a better letter if we first got the staff to maybe  
9 pull together a few materials, maybe ask the Bureau of  
10 Prisons, for example, what their current practices are  
11 and what they believe the applicable law is, et cetera,  
12 and on the basis of that, then maybe write a statement  
13 that would be a little more substantive, be a little  
14 edgier, I think, than just saying, "We think these  
15 religious practices need to be respected." But that would  
16 be my suggestion on that.

17           And then lastly, I wanted to raise for Mr. Deloria  
18 and also maybe for Professor Montoya, who I think is  
19 going to be speaking in the next panel, if you could say  
20 anything to us about -- maybe this is rhetorical; I'm not  
21 sure -- the question of what issues are properly thought  
22 of as matters of sovereignty and trust responsibility  
23 versus civil rights versus, quote, unquote, "human  
24 rights."

25           Maybe there's no important distinction between

1 those latter two. But I have heard from some Native  
2 Americans at various points that there are issues that  
3 they don't want thought of or characterized as civil  
4 rights issues because they're really issues of  
5 sovereignty and holding the federal government to its  
6 trust responsibilities.

7 So what I'm looking for here is if you have any  
8 advice conceptually about where those lines ought to be  
9 drawn, or perhaps more pragmatically, are there any  
10 cautions that you and Professor Montoya would offer to  
11 the Commission about, in your views, where we ought to --  
12 are there areas that we as the Civil Rights Commission  
13 should not look into because, from a perspective of  
14 native peoples, it would be better not to characterize  
15 those as civil rights issues? Did that make any sense?

16 MR. DELORIA: Yeah, but it's going to take a month  
17 to answer your question. You're heading for the airport.

18 COMMISSIONER BERRY: Are you going to try to answer  
19 it?

20 MR. DELORIA: No.

21 COMMISSIONER BERRY: I was about to remind --

22 MR. DELORIA: But I'm going to take about 20  
23 minutes to tell him why I'm not going to try to answer  
24 it.

25 COMMISSIONER BERRY: No, no, no. Why don't we do



1 the following, if it's okay, and we'll see what Professor  
2 Montoya wants to do. Remind Commissioner Edley, who was  
3 not a member of the Commission at the time, the  
4 Commission did a series of hearings -- some of you may  
5 remember; you all look too young to remember -- years  
6 ago, out here, on Indian tribal sovereignty and the  
7 courts and the justice system and Indian civil rights.  
8 Does anybody remember that?

9 And it got to be this huge big morass, both  
10 politically and every other way, and the Commission  
11 finally came up with a report. So I think what we ought  
12 to do is look at that first and then ask the question.  
13 And also when Terri's shop is doing this project, which  
14 does involve some distinctions between what is trust and  
15 what is Indian civil rights, when they talk about  
16 enforcing civil rights, maybe approach it that way. I  
17 know it's a very sticky issue, but if you want to  
18 respond, it's fine.

19 COMMISSIONER EDLEY: Or maybe send us a letter to  
20 help inform that, that would be very, very helpful.

21 COMMISSIONER REYNOSO: Madam Chair, I just want to  
22 comment that it's sort of sad, though not unique, to hear  
23 that many of the problems that we reported on in the  
24 1970s and 1980s are still with us today.

25 I can't help but be reminded that when I served on

1 the UN Commission on Human Rights, I saw perhaps more  
2 American representatives in Geneva than I see sometimes  
3 in Washington, D.C. And I asked some of the folk why  
4 that was true, and they told me that they felt that the  
5 UN hearings were more understanding and more welcoming  
6 than Washington, D.C.

7 I think that's a sad commentary on our ability to  
8 respond to the problems of the American people, including  
9 Native Americans. So I have been very appreciative of  
10 the testimony we've heard this morning and hopefully,  
11 through our efforts, we can elevate the sensitivity and  
12 knowledge in Washington of these very real issues that  
13 continue to be with us.

14 COMMISSIONER BERRY: And I want to also add the  
15 point that Ms. Melton made about the conflict-of-interest  
16 issue and the contracts. I would hope, Commissioners  
17 Meeks and Edley, that when you and Russell are  
18 considering this economic development project, that you  
19 would include some consideration of that in that, so that  
20 that would be taken care of, too. I think it's a good  
21 idea and we'll do this, because it's consistent with  
22 policies that we already have, to write a letter. And we  
23 can get it voted on if you want to. We'll talk about it,  
24 on the sites, the sacred sites issue.

25 And on the spiritual matters, I think in addition

1 to getting more information about it, I think we should  
2 make a site visit to some prison or facility to find out  
3 just how this plays out on the ground as we have gone to  
4 other prisons and other sites and borders and places to  
5 look at issues which will give us a better feel for the  
6 issues. So I think that that would be a response to  
7 that.

8 MR. FOSTER: Can I say something to that, Madam  
9 Chair?

10 COMMISSIONER BERRY: Yes.

11 MR. FOSTER: I would recommend that you visit  
12 Arizona, Texas, Montana, and South Dakota to see exactly  
13 the racism, discrimination, that exists. And also in  
14 response to Mr. Edley, the Federal Bureau of Prisons  
15 would be the model. We're not talking about the Federal  
16 Bureau of Prisons system. We're talking about the state  
17 department of corrections in these states that I  
18 mentioned. It's a very serious concern. Our people who  
19 are incarcerated in these state prison systems are  
20 completely ignored in some cases, such as in Texas. You  
21 don't have any sweat lodges in the system, because it's  
22 been said by the officials that the sweat lodge is a  
23 security threat, having long hair is a security threat,  
24 and it's absolutely absurd.

25 COMMISSIONER BERRY: All right. Well, thank you

1 very much. I thank the panel, and we will move on to our  
2 next panel.

3 **IX. Panel - Civil Rights Developments in New**  
4 **Mexico**

5 COMMISSIONER REYNOSO: Thank you very much. This  
6 is a panel on civil rights developments in New Mexico. We  
7 will now hear from our final group of panelists who will  
8 inform us of the other emergent civil rights issues in  
9 New Mexico.

10 Sitting on the panel are Ms. Virginia Candelaria-  
11 Martinez, director of the Albuquerque Human Rights  
12 Office; Ms. Diana Dorn-Jones, director of the United  
13 South Broadway Corporation/Project CHANGE board of  
14 directors. Ms. Margaret Montoya, professor of law at the  
15 University of New Mexico School of Law; and Mr. Peter  
16 Simonson, Ph.D., representing the New Mexico Human Rights  
17 Coalition and executive director of the ACLU in New  
18 Mexico.

19 We will start then with Ms. Candelaria-Martinez,  
20 who I understand, I'm told, is a native of New Mexico, is  
21 the director of the Albuquerque Human Rights Office. She  
22 has been with the office for 19 years, working in  
23 different capacities including contract compliance,  
24 training, and as assistant director. Ms. Candelaria-  
25 Martinez is the director of the office for the past five

1 years. Is all that correct?

2 MS. CANDELARIA-MARTINEZ: Yes, thank you. Madam  
3 Chair, Commissioners, I appreciate the opportunity to  
4 speak before you today. I will utilize my time to share  
5 information about the rich, diverse mosaic that makes up  
6 the City of Albuquerque, and will talk a little bit about  
7 the pressing human rights issues we plan to address in  
8 the coming year.

9 The 2000 census reflects that based on racial  
10 categories we have in Albuquerque, 71.2 percent white,  
11 which is down from 78.2 percent in 1990. 3.1 percent  
12 black, up from 3.0. 2.2 percent Asian, up from 1.7, 3.9  
13 percent Native American, up from 3.0, 0.1 Pacific  
14 Islander, 14.8 other, up from 14.0. And 4.3 who  
15 identified as two or more races.

16 In addition, 39.9 percent of the population in  
17 Albuquerque is Hispanic, up from 34.5. I don't have the  
18 breakdown in terms of Hispanic in terms of Cuban, Puerto  
19 Rican, people from El Salvador, et cetera. Unfortunately,  
20 I don't have that breakdown with me today.

21 This clearly reflects an increase in all the  
22 minority racial categories in Albuquerque. However, the  
23 beauty in Albuquerque is reflected more in knowing and  
24 truly understanding the diverse ethnic, cultural and  
25 other diverse groups who live and work together in our

1 beautiful city.

2           There are many whose populations number at least  
3 700 in Albuquerque. If you'll bear with me, I'd like to  
4 mention those as well, because each and every one of them  
5 are important. Apache, Arab, Asian, Indian, Central  
6 American, Cherokee, Chinese, Cuban, Czech, Danish, Dutch,  
7 English, Filipino, French, French Canadian, German,  
8 Greek, Hungarian, Indonesian, Irish, Italian, Japanese,  
9 Jewish, Korean, Lithuanian, Mexican, Native Hawaiian,  
10 Navajo, Persian, Polish, Portuguese, Puerto Rican,  
11 Russian, Scandinavian, Scottish, Slovak, South African,  
12 Spanish, Ukrainian, Vietnamese, and Welsh, not to mention  
13 the many members of the 23 pueblos in New Mexico who also  
14 live in Albuquerque but, of course, are not numbered in  
15 the 700 number.

16           We often talk about diversity, a term that I think  
17 has certainly been overused and surely misunderstood.  
18 When we talk about diversity, mostly we have narrowed it  
19 down to only racial diversity, probably because it is  
20 easier for us to control in some way and it lets us off  
21 the hook from a true and indepth understanding of what  
22 diversity really means. When we keep ourselves in those  
23 little boxes, I think it is always safer.

24           Sadly, we talk about understanding of cultures,  
25 appreciating and celebrating our differences as well as

1 our similarities. However, few of us make the effort to  
2 learn about the people who live along us. Who are they?  
3 What is their culture all about? What are their  
4 traditions and what do they signify?

5 A special effort has been made by the City of  
6 Albuquerque Human Rights Office to increase the awareness  
7 and understanding of the many cultures, ethnicities, and  
8 the other diverse groups in Albuquerque. We are in the  
9 community learning about the varied ethnic, cultural, and  
10 other groups such as the gay/lesbian and bisexual  
11 communities, the transgender community, people with  
12 disabilities.

13 People in these communities guide us and assist us  
14 in teaching others about their cultural, ethnic, diverse  
15 backgrounds. Learning even a small aspect of another  
16 culture should lead us to a greater understanding and  
17 appreciation of our own culture. This would help reduce  
18 the intergroup tension and hostility that we have here in  
19 Albuquerque.

20 As a community, hopefully we will attempt to move  
21 away from teaching tolerance. We should not encourage  
22 toleration of another culture, tolerate another ethnic  
23 group, tolerate gays and lesbians, tolerate transgender  
24 individuals. Of course, civil rates groups, educational  
25 institutions, and others have for some time promoted

1 tolerance as a positive action. However, technically,  
2 tolerance means the capacity to endure pain or hardship.

3 We should focus not on enduring pain or hardship, but  
4 rather learning, understanding, and, yes, appreciating  
5 all of our contributions, our traditions, uniqueness and  
6 similarities. All ethnicities, all cultures, gays,  
7 lesbians, transgendered individuals, people with  
8 disabilities.

9 I think going further still is important to  
10 increase our own awareness of the issues and challenges  
11 faced by those outside our world, our own group. Get  
12 involved in their issues. Advocate on their behalf, as  
13 well. Hopefully, by partnering and collaboration we can  
14 make greater headway in furthering the causes of civil  
15 rights for all of us.

16 I think it's across the nation where we have a  
17 tendency to be aware of the issues faced by our own  
18 racial group, our own ethnic group, and rarely do we step  
19 outside of that to support our brothers and sisters in  
20 the areas that we live.

21 In addition to our continuing work on  
22 discrimination in employment, housing, and public  
23 accommodations in our city, the focusing on  
24 underutilization of minorities in employment, increasing  
25 access for people with disabilities and simply trying to



1 keep affirmative action alive, we are working to add  
2 sexual orientation and gender identities as prohibited  
3 bases of discrimination in employment, housing, and  
4 public accommodations.

5 It is important to note that as an employer, the  
6 City of Albuquerque prohibits discrimination based on  
7 sexual orientation and employment and in provision of  
8 services. Local and state law should follow suit. As we  
9 know, sexual orientation and gender identity issues  
10 transcend across races, ethnicities, and cultures.

11 I see that. Can I just continue a couple of more  
12 issues here?

13 In Albuquerque, discrimination against immigrants  
14 is an issue we need to face in Albuquerque. The Human  
15 Rights Office, together with the New Mexico Human Rights  
16 Coalition, UNM Law School, and others recently published  
17 a report on access to city services by monolingual  
18 Spanish and Vietnamese-speaking immigrants, the two  
19 largest immigrant groups in Albuquerque. I have a copy  
20 of the survey with me today, the report, if anyone is  
21 interested in having a copy.

22 Basically, we have found that these consumers do  
23 not have adequate or equal access to city services and,  
24 quite simply, language is a barrier. Racial profiling,  
25 which some would argue is not as extreme in Albuquerque

1 as in other cities, I think needs to be addressed in  
2 Albuquerque. We don't know what the level is because  
3 we've not studied or measured it. Mayor Chavez a year  
4 ago signed an executive order prohibiting racial  
5 profiling in employment in the City and in the provision  
6 of City services. Voluntary data collection on a broader  
7 level would be a great way to build on the executive  
8 order.

9 Studying racial profiling would support community-  
10 oriented policing, so this will be need to be a  
11 community-wide effort, including government, law  
12 enforcement, and the community.

13 Once again, in terms of hate crimes, the city  
14 leads the way in the state of New Mexico. We have a hate  
15 crimes ordinance that was passed in 1997. We will be  
16 looking working at the state level hopefully to get an  
17 ordinance.

18 COMMISSIONER BERRY: Ms. Candelaria-Martinez,  
19 you're going to have to sum up. And then any reports or  
20 documents we'll include in the record.

21 MS. CANDELARIA-MARTINEZ: That's about it. I  
22 wanted to say that the City of Albuquerque is leading the  
23 way in terms of the hate crimes ordinance, and we will  
24 continue to lend our support, and not money, because we  
25 have none, to other issues such as predatory lending,

1 urban Indian issues, and other human rights issues here  
2 in the city of Albuquerque. And I think while we're in  
3 the forefront in the city of addressing some of these  
4 human rights issues, we still have a lot of work to do,  
5 both on a state and city, local, level. Thank you so  
6 much.

7 COMMISSIONER REYNOSO: Thank you.

8 COMMISSIONER BERRY: When you say, "Money, we have  
9 none," you meant the agency or you meant the --

10 MS. CANDELARIA-MARTINEZ: I think all of us, the  
11 government.

12 COMMISSIONER BERRY: You were talking about the  
13 agency?

14 MS. CANDELARIA-MARTINEZ: I was speaking mainly as  
15 a government agency.

16 COMMISSIONER BERRY: Right. Okay. Thank you very  
17 much.

18 Ms. Dorn-Jones, please.

19 MS. DORN-JONES: Good afternoon, Madam  
20 Chairperson, members of the Commission. My name is Diana  
21 Dorn-Jones. I'm the director of United South Broadway  
22 Corporation. United South Broadway is a nonprofit  
23 community development corporation that addresses  
24 affordable housing, commercial revitalization, youth  
25 development, and environmental design for Albuquerque's

1 federally designated pocket of poverty communities.

2 I was born and raised in these communities, all of  
3 which surround the downtown area where we currently sit.

4 This morning I want to share with you the work of the  
5 Anti-Racism Institute of the Southwest. I'm a founding  
6 member of the Anti-Racism Institute, which grew out of  
7 the work of Albuquerque Project CHANGE, and you are  
8 getting some material passed out to you about Project  
9 CHANGE.

10 And Project CHANGE is an anti-racism project that  
11 has been addressing issues of institutional racism in  
12 Albuquerque. The ARTI, which comes from the outgrowth of  
13 the Project CHANGE program, is part of a network of  
14 institutes committed to combating racism, achieving  
15 racial justice, and building democratic communities.

16 The ARTI offers education and organizing training  
17 for racial equity in four areas: Health care, public  
18 education, economic development, and law. Vicki Plevin is  
19 here, and she is our director.

20 The Project CHANGE Fair Lending Center falls under  
21 the umbrella of the ARTI and addresses the economic  
22 development work of the ARTI. Raynell Zuni is here as  
23 our staff person and she is heading our predatory lending  
24 campaign.

25 In this area we are currently addressing predatory

1 lending in New Mexico. We are engaged in a campaign to  
2 stop predatory lending at the upcoming legislative  
3 session. Two forms of predatory lending exist and take  
4 place in New Mexico: Payday and auto title loans and  
5 mortgage lending. One of the reasons that New Mexico is  
6 vulnerable to these practice is because New Mexico is one  
7 of four states without a usury cap for licensed lenders.

8 And that means an interest rate cap. Idaho, New  
9 Hampshire and Wisconsin also share that.

10 Since 1992 there has been an explosion in the area  
11 of predatory lending and payday lending. In the area of  
12 payday lending, we went from 23 of these lenders to 349,  
13 an increase of over 1400 percent. The average interest  
14 rates on these loans are 508 percent. These  
15 establishments are concentrated in low-wealth communities  
16 of color.

17 The largest increase in the state has been in  
18 Gallup, New Mexico, Gallup had a 2400 increase per capita  
19 1992 to 2001.

20 The campaign to stop predatory lending, which is a  
21 number of organizations around the state, is a statewide  
22 campaign, we're joined by AARP, ACORN, New Mexico  
23 Community Development Loan Fund, the Senior Citizens Law  
24 Center, American Indians for Opportunity, and other  
25 community groups that are interested in this statewide.

1           The campaign is promoting reform. They include  
2 something like interest rate caps and limits on fees,  
3 extending loan terms, ban on rollovers, and most  
4 importantly, we will put forth a bill that calls for data  
5 collection. Nationally, data has driven the reform and  
6 we lack that information in New Mexico.

7           In the area of mortgage lending, abuses are taking  
8 place in the subprime lending markets. According to FNMA  
9 almost 50 percent of the borrowers who end up with  
10 subprime loans actually qualify for lower-cost  
11 conventional financing. Again, low-wealth communities of  
12 color are targeted.

13           FNMA came out this morning on the news and stated  
14 that predatory lending is the single most important issue  
15 that threatens the viability of the mortgage industry in  
16 this country today.

17           In Albuquerque, Hispanic census tracts had the  
18 largest disparity ratios, 2.59 percent times as many  
19 subprime loans as compared to whites. And HMDA data,  
20 Home Mortgage Disclosure Act, revealed that 80 percent of  
21 the homes purchased -- home-purchased loans to Native  
22 Americans were from subprime lenders, compared to only 15  
23 percent to whites during the year 2000.

24           Recent studies reveal foreclosure rates in  
25 Bernalillo County tripled since 1996. From 1996 to 2000,

1 foreclosures by subprime lenders increased from 57 to  
2 422, a 640 percent increase. The number of foreclosures  
3 in the U.S. has increased, as well, by more than 384  
4 percent, quadrupling the foreclosure rate in the last 20  
5 years. New Mexico needs legislative reform that  
6 establishes a usury cap, the laws that prohibit the  
7 practice of financing, the points and fees and high-cost  
8 loans and others, laws that prohibit abusive practices  
9 and put in place protections for New Mexico consumers.

10 The campaign is putting forth legislation that  
11 addresses many of these issues. The consequences of  
12 predatory lending have very serious effects and negative  
13 impacts on our state. Families are evicted,  
14 neighborhoods suffer, and tax bases decline, thereby  
15 driving our state deeper into poverty.

16 New Mexico has some of the highest poverty rates  
17 in the country. Currently, at last check, we were 50th  
18 in poverty. This issue can be complex, probably by  
19 design. The National Consumer Law Center has published a  
20 book, Stop Predatory Lending: A Guide for Advocates.  
21 This book is recommended because it attempts to simplify  
22 and demystify the work of the finance industry. It tends  
23 to put it in lay terms. So I would suggest that this is  
24 a good book for people who want to understand some of the  
25 complex issues of predatory lending. Thank you.

1           COMMISSIONER BERRY: All right. Thank you very  
2 much.

3           Dr. Simonson. Please proceed.

4           DR. SIMONSON: Thank you, Madam Chair, members of  
5 the Commission. I wanted to thank you, as well as Mr.  
6 Dulles, for the opportunity to talk to you about civil  
7 rights issues here in New Mexico today.

8           I'm going to, for the sake of brevity, limit my  
9 comments to only discussing issues in which racial  
10 discrimination in law enforcement is the primary concern.  
11 Virginia's already talked to you, mentioned the fact that  
12 our mayor here in Albuquerque, Mayor Martin Chavez, last  
13 year issued an executive order prohibiting racial  
14 profiling either on the part of City employees in general  
15 and the provision of social services, or in law  
16 enforcement.

17           The New Mexico Human Rights Coalition has been  
18 working with the mayor's office to try and develop a task  
19 force that would make recommendations and implement those  
20 recommendations in practices that would provide some  
21 preventive measures to racial profiling.

22           On a practical level, from my observation and from  
23 my experiences as director of the ACLU, what I have seen  
24 has been that immigrants are some of the most highly  
25 targeted groups with racial profiling. We've received



1 numerous reports of the State Police using racial  
2 characteristics and other markers that are typically  
3 associated with Mexican nationality as a proxy for  
4 criminal suspicion, and they have used that to question,  
5 detain immigrants when they have no proof that those  
6 people have, in fact, engaged in any sort of criminal  
7 activity.

8 Generally these traffic stops are done to harass  
9 people who the police, often erroneously, assume are  
10 undocumented. In several reported instances, the  
11 officers have unlawfully detained people and seized their  
12 identification documents. And in fact, in one recent  
13 incident that was reported to us, a woman who was born  
14 and raised in Espanola, a northern New Mexican town, was  
15 confronted with accusations by a state police officer  
16 that she was an "illegal," in quotes. He seized her  
17 Social Security card and threatened to have her deported.  
18 And that's an issue that we continued to work on.

19 Similarly, we've received reports in recent months  
20 and over the last year or two of the use of DWI stops as  
21 a pretext for the state police to cooperate with the INS  
22 and identify people who are undocumented.

23 About a year ago we had a major DWI stop outside  
24 of Santa Fe in which some 17 undocumented immigrants  
25 were, in fact, detected, people whose lives and

1 livelihoods and families were established in Santa Fe,  
2 and were egregiously disrupted by being returned to their  
3 country when they really had no sort of criminal  
4 involvement to speak of.

5           These are the sorts of activities that the ACLU  
6 and the New Mexico Human Rights Coalition are very  
7 concerned about. These misguided and ill-intentioned  
8 attempts by state police officers to enforce federal  
9 immigration law are serious and ones that we would like  
10 to address in the upcoming legislative session. In fact,  
11 we have a proposal that will go before our state  
12 legislature that would try to prohibit state police from  
13 enforcing federal immigration law, paralleling a similar  
14 statute that the state of Oregon actually has.

15           Fortunately, both Albuquerque and Santa Fe have  
16 passed resolutions that discourage their police  
17 departments from verifying immigration status unless  
18 individuals are criminal suspects. That's a fairly  
19 unusual development here in New Mexico and throughout the  
20 country, but it does provide our immigrant groups some  
21 measure of protection against these sorts of actions.

22           Another group that certainly suffers the indignity  
23 and the injustice of racial profiling and racial  
24 discrimination in our state is the African-American  
25 community. And I'd really like to devote the rest of my

1 comments to one alarming and especially noteworthy  
2 context where this is occurring in the medium-size town  
3 in southeastern New Mexico called Hobbs.

4 In the year 2001, cooperating attorneys for the  
5 ACLU of New Mexico settled one of the largest civil  
6 rights lawsuits ever filed against a police agency in the  
7 history of the state. In Johnson versus City of Hobbs we  
8 represented the African-American residents of Hobbs in a  
9 class action lawsuit against Hobbs city police alleging a  
10 campaign of intimidation against African-Americans,  
11 including the malicious filing of criminal charges,  
12 unlawful searches and seizures, excessive use of force,  
13 and a pervasive pattern of police harassment.

14 Ms. Jodi Johnson and her two children were three  
15 of the seven named plaintiffs in this suit. In April of  
16 1996 Ms. Johnson's front door was bashed in by seven  
17 Hobbs SWAT team members who held her and her children at  
18 gunpoint while their home was ransacked. Ms. Johnson's  
19 naked nine-year-old son was forced to lay on the floor  
20 with his 11-year-old sister, crying and begging for their  
21 mother as she was handcuffed by defendants.

22 Officers did not find the individual they were  
23 looking for. Officers flashed a search warrant at Ms.  
24 Johnson as they left the home.

25 In May of 2001 ACLU cooperating attorneys Daniel

1 Yohalem and Richard Rosenstock settled the case with the  
2 City of Hobbs, resulting in a stipulated agreement that  
3 requires vastly improved police procedures. I won't go  
4 into the details of that stipulated agreement, but one  
5 year and eight months after the creation of that  
6 stipulated agreement, the ACLU and plaintiffs in the  
7 Johnson suit believe that racial disparities and illegal  
8 police practices are as bad now as they were prior to the  
9 lawsuit.

10 We have evidence to show that numerous internal  
11 monitoring and corrective and other provisions of the  
12 stipulated agreement have been violated. We believe that  
13 the internal monitor that was assigned to oversee this  
14 stipulated agreement has utterly failed to perform his  
15 duties as an external monitor and has, in fact, rubber-  
16 stamped the violations as they have occurred.

17 We have data that would demonstrate from the Hobbs  
18 Police Department that, in fact, there is ongoing  
19 racially disparate treatment by the police, particularly  
20 towards African-Americans, but including Hispanics. And  
21 in fact, in one quarter last year African-Americans and  
22 Hispanics together made up almost 90 percent of those  
23 subjected to the use of force by Hobbs police officers.

24 COMMISSIONER BERRY: Please sum up, Dr. Simonson.

25 DR. SIMONSON: The ACLU of New Mexico is

1 contemplating further litigation in this record. Our  
2 original suit is a class action suit and, therefore, we  
3 represent the class of African-American residents. It  
4 makes it difficult for us to be involved with other  
5 racial groups who are also affected by this situation.

6 We would strongly urge that the Commission take a  
7 serious look at what's going on in Hobbs. I think it is  
8 an unusual circumstance of civil rights violation. It's  
9 a place where the Commission could actually have a  
10 discrete and tangible impact. What we need to see are  
11 public hearings in that town where people feel  
12 comfortable to bring up their experiences, whether  
13 they're African-American or Hispanic, or otherwise,  
14 regarding to their police treatment. Thank you very  
15 much.

16 COMMISSIONER BERRY: All right. Thank you very  
17 much. Now we turn to Professor Montoya.

18 MS. MONTOYA: Thank you, Madam Chair, and  
19 Commissioners. (In Spanish.) Thank you for giving me  
20 this opportunity to speak about the civil rights  
21 conditions that face the Indo-Hispano communities of New  
22 Mexico.

23 Here we situate ourselves by explaining where  
24 we're from and who our people are. I was born in Las  
25 Vegas, New Mexico. My father's family worked in the

1 copper mines in southern New Mexico. My mother's father  
2 worked for the Santa Fe Railroad.

3 After World War II and because of the GI bill, my  
4 father became a social worker and worked for the Welfare  
5 Department for 25 years. My story is like that of many  
6 other families who have been in New Mexico as long as we  
7 know.

8 As you heard from Ms. Candelaria-Martinez, New  
9 Mexico's racial ethnic profile is quite different from  
10 that of the rest of the nation. We have a large  
11 Latino/Latina population, more than 42 percent, three and  
12 a half times the national average. And an American Indian  
13 population of approximately 9.5 percent, or ten times the  
14 national average. This makes New Mexico a majority  
15 minority state, but its racial profile is complicated  
16 because there are relatively small numbers of African-  
17 Americans, only one-sixth of the national average, and  
18 Asian Americans are only one-third of the national  
19 average.

20 New Mexico is consistently one of the poorest  
21 areas in the nation, competing with D.C. and Mississippi  
22 for the bottom rung. During 1998 to 2000, the average  
23 median income for family households was \$34,410, or  
24 \$6,700 less than the national median. 23 percent of Indo-  
25 Hispano families live in poverty. New Mexico's

1 Latino/Latina peoples are overrepresented in the roles of  
2 those who are low income, chronically unemployed, ill-  
3 housed, undereducated, in poor health, and those who have  
4 frequent contact with the criminal justice system.

5 But that description doesn't do justice to us. We  
6 are hardworking and resourceful. Through our  
7 participation in two cultures and two languages, we are  
8 accomplished code switchers. Our bond to the land, to  
9 the water, the sky, is a covenant with our ancestors. In  
10 a secular society we remain religious and deeply  
11 spiritual.

12 We are avid storytellers. Our arts, aesthetics  
13 and cuisine are distinctive. Yet the Latinos and Latinas  
14 who inhabit New Mexico are largely invisible to the rest  
15 of the nation. Our narratives are silent within the  
16 popular media. Our history is untaught. Our children  
17 are depicted through stereotypes and slurs. We exist at  
18 the margin of the public imagination.

19 This invisibility, coupled with the inattention to  
20 our problems by Congress and other policymakers,  
21 translates into a serious civil rights issue. As we  
22 enter this new millennium, the US is still trapped in a  
23 racial paradigm that had its genesis in the genocide of  
24 native peoples and the enslavement of African peoples.

25 For the most part, that racial paradigm is white

1 over black. The debts for these racial crimes have not  
2 been attended to, and we await social reconciliation.  
3 This society's subordination of other peoples of color  
4 continues on a parallel track. This is the civil rights  
5 challenge for this century.

6 Our problems today are similar to those that the  
7 Commission studied in the 1960s and 1970s, but today  
8 there is new research and new understandings about race  
9 that can inform the Commission's work. The challenge is  
10 to develop an understanding of the complex racial  
11 dynamics that create white-on-color and color-on-color  
12 divisions and tensions.

13 For example, among New Mexico Latinos and Latinas  
14 there is widespread ignorance and denial of the racism,  
15 such as the racial profiling in Hobbs that blights the  
16 lives of many African-American citizens. Most people in  
17 New Mexico were unaware of the importance of the Wen Ho  
18 Lee case to the Asian communities and their justifiable  
19 perception that this case has been a setback to their  
20 historic struggle to be accepted as loyal and patriotic  
21 citizens.

22 There are numerous issues and challenges.  
23 Educational attainment rates for Latinos and Latinas are  
24 among the lowest in the nation. Less than ten percent of  
25 us have completed a bachelor's degree. Since 1976 we



1 have only doubled our percentage in graduate schools,  
2 from 2 percent to 4 percent. That is why the affirmative  
3 action cases pending before the Supreme Court, the  
4 Grutter and Gratz cases, are of critical importance to  
5 our communities.

6 UNM is not a selective institution such as the  
7 University of Michigan or the UC system, but our  
8 undergraduate programs are feeders for those elite  
9 graduate and professional schools. We aspire to send our  
10 students to those schools. We hire significant numbers  
11 of faculty members from those schools. In many ways, we  
12 participate in the economies of social power that are  
13 part of these elite institutions. It will be a huge cost  
14 for New Mexico and for its communities of color if the  
15 court acts to resegregate the institutions of higher  
16 education.

17 I could talk about these other issues, about the  
18 catastrophic dropout rates, the increasing incarceration  
19 rates of Latinas and their devastating effects on  
20 families, or about the need for services for immigrants.

21 I could cite you statistics and I could tell you  
22 terrible stories, but we haven't the time.

23 A recurring collective narrative in New Mexico is  
24 that the different ethnic and racial communities coexist  
25 peacefully and in harmony. Unfortunately, it's a myth,

1 but it's an aspirational myth. Our history is as much  
2 about conflict as it is about cooperation, as much about  
3 displacements as about inclusion. Our family stories are  
4 replete with anecdotes about forced assimilation as well  
5 as cultural reclamation.

6 That is why New Mexico has important lessons to  
7 teach the rest of the country. We have long been a  
8 laboratory in which diverse peoples meet and mix. As much  
9 as any other place, we understand and have repeatedly  
10 experienced, as you heard from my friend Sam Deloria, the  
11 synergy that is created by bringing different  
12 perspectives, world views, tastes, and competencies to  
13 bear on the issues that face us. Of that, we New Mexicans  
14 are justly proud.

15 (Applause.)

16 COMMISSIONER BERRY: Beautifully put. You are a  
17 gem.

18 You know, when one deals with these issues for so  
19 long, for so many years, at some point you think, as I  
20 said to somebody outside, you know, this is going  
21 wonderfully except that you get frustrated because the  
22 problems seem to persist.

23 But you have given us such a good frame for all  
24 these things. And one of the things that I wanted to ask  
25 is, does anyone there know the political participation or

1 political rates of appointment, election, and so on for  
2 people of color, Latinos, in New Mexico? I don't know  
3 the answer. And I know Bill Richardson and I know his  
4 origins. But what about in general?

5 MS. MONTOYA: It's a complicated picture. A third  
6 of the state legislature is people of color, and that has  
7 been historically true. People of color have held  
8 leadership positions in the legislature. Today -- in  
9 fact, just as of yesterday -- the chief justice of the  
10 New Mexico Supreme Court is a Latina for the first time  
11 in any court in this country.

12 So it's a very spotted record. It is important to  
13 say that Governor Richardson vowed to make his cabinet  
14 reflective of that of the state. He has appointed native  
15 peoples, some for the first time. And so it's a very  
16 complicated profile, because while there are instances of  
17 inclusion, the fact remains that there are many places --  
18 and the University is one -- in which we are only now  
19 starting to achieve some measure of representation, and  
20 that is being turned back. We have reached a ceiling.  
21 It is true at the law school and it is true at other  
22 places, where those numbers are seen as a ceiling, and it  
23 is a challenge for us.

24 MS. DORN-JONES: Commissioner, I think that while  
25 we're encouraged by Governor Richardson's appointments, I

1 think we've seen what we haven't seen in the past, in  
2 terms of the numbers of the people coming into cabinet  
3 positions, just two days ago in our local paper, the  
4 NAACP did point out that there's yet to be an appointment  
5 to a top cabinet secretary position by an African-  
6 American. While there have been appointments in the  
7 second position as assistant secretary, there was some  
8 concern by the NAACP just recently about the lack of an  
9 African-American in one of those top positions.

10 COMMISSIONER BERRY: What about in the city of  
11 Albuquerque? Do you know, Ms. Candelaria-Martinez?

12 MS. CANDELARIA-MARTINEZ: At what level? In terms  
13 of appointments?

14 COMMISSIONER BERRY: Yes. I just meant for people  
15 of color generally, native peoples, Latinos, Latinas.

16 MS. CANDELARIA-MARTINEZ: Currently or  
17 historically?

18 COMMISSIONER BERRY: Now.

19 MS. CANDELARIA-MARTINEZ: I think right now we  
20 have a black male who is the number three person here in  
21 the City of Albuquerque. I think we have made great  
22 strides in the appointments of women, some women. And  
23 when I say great strides, I think we have a lot of work  
24 to do. I think that we have a lot of work to do in terms  
25 of the appointments of Native Americans to high-level

1 positions in the city.

2 COMMISSIONER BERRY: Okay. Does anyone know about  
3 the Native American -- I know the Latina representation.  
4 We talked about that a little bit, at the University.  
5 What about Indians at the University?

6 MS. MONTOYA: It's terrible. It's terrible. We  
7 at the law school this year tenured the first pueblo  
8 woman, and I think that she is the first pueblo person  
9 tenured in any law school in the country. But our  
10 numbers are one. We have one at the law school.

11 COMMISSIONER BERRY: One Native American faculty  
12 member.

13 MS. MONTOYA: One Native American faculty member.

14 COMMISSIONER BERRY: Do you have any in high  
15 administrative positions at the University?

16 MS. MONTOYA: It is a perennial problem. No.

17 COMMISSIONER BERRY: So you don't. Do you have  
18 any -- gee. Well --

19 MS. MONTOYA: I don't think there's a dean, I  
20 don't think there's a vice president. And I'm not sure  
21 there ever has been.

22 COMMISSIONER BERRY: I was just asking that  
23 considering the population of New Mexico in which you  
24 have many more Native American Indians percentagewise as  
25 you give me the list. It sounded like you have a --

1 MS. MONTOYA: Ten percent of the state.

2 MS. CANDELARIA-MARTINEZ: I think that's why it's  
3 important that we keep -- while people turn their nose up  
4 when we talk about affirmative action, we still need to -  
5 - affirmative action is still needed and we still need to  
6 keep that alive.

7 COMMISSIONER BERRY: Right. Okay. Well, what we  
8 have heard from you and from the other panels in our set  
9 here is that the importance of all this is that it helps  
10 to inform us as we work on all these issues. And if you  
11 were here earlier you heard us talk about what we plan to  
12 work on and what we are working on, and we have a better  
13 understanding of the directions.

14 And some of it we're already working on, but it  
15 just reinforces our notions that we ought to do it. So I  
16 want to thank you very much for coming, and to say that  
17 with that, unless you have anything you want to say --  
18 no?

19 COMMISSIONER REYNOSO: I just want to note that  
20 having a Latina chief justice is so exceptional that even  
21 the Los Angeles Times noted that. And she is a former  
22 student of mine.

23 (Applause.)

24 COMMISSIONER BERRY: We are having a reception in  
25 the Fiesta Room IV, which is on this floor right down the

1 hallway, to meet and greet you.

2 Thank you all very much for coming. Thank you.

3 (The meeting concluded at 12:51 p.m.)

4

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