

DRAFT

1

MIDWEST CIVIL RIGHTS LISTENING TOUR

Iowa, Kansas, Missouri, Nebraska and Oklahoma Advisory
Committees to the U.S. Commission on Civil Rights

Location: Four Points by Sheraton
Country Plaza
One East 45th Street (Main)
Kansas City, Missouri

Date: Thursday, May 27, 2004

Reporter: Sandra S. Sondag, CCR
Allen Reporting Services

SAC Members participating

Iowa Advisory Committee
Ms. Marcia Stasch

Kansas Advisory Committee
Mr. Will Burnett
Mr. Reynaldo Mesa
Ms. Nicketa Nevils
Mr. William Nulton

Missouri Advisory Committee
Dr. Alma Navato
Mr. George Parker
Ms. Mona Perry
Mr. Al Plummer
Dr. Cora Thompson
Ms. Rita Valenciano

Nebraska Advisory Committee
Mr. Gary Hill
Mr. James Faimon
Mr. Glenn Freeman
Mr. Christopher Rodgers

Oklahoma Advisory Committee
Dr. Earl Mitchell
Dr. Donald Maletz
Ms. Lynn Powell

United States Commission on Civil Rights
Mr. Les Jin, Washington D.C.
Ms. Farella Robinson, Central Region

LIBRARY
U.S. COMMISSION ON CIVIL RIGHTS

CCR
3
Meet.
360

215 West 18th Street
Kansas City, MO 64108

Allen Reporting Services

Jennifer S. Barker
816-221-3441

I N D E X

	PAGE
Opening Statement - Dr. Mitchell, Chair	4
Introduction of Panel	4
Continued Opening Statement - Dr. Mitchell	5
Statement By Ms. Robinson, Civil Rights Analyst	8
Statement By Mr. Jin, Staff Director	9
Welcome Address By Honorable Kay Barnes, Mayor	11
Session I - "No Child Left Behind" and Minority Children and Schools	
Dr. Mary Davison-Cohen, Secretary of Education Regional Representative, Region VII	13
Dr. Bernard Taylor, Jr., Superintendent, Kansas City, Missouri School District	42
Dr. Ray Daniels, Superintendent, Kansas City, Kansas School District	57
Session II - "Foster Care and Adoption of African-American Children"	
Ms. Millicent Charles, Foster Care Parent, Wichita, Kansas	74
Ms. Roberta Sue McKenna, Assistant Director for Child Welfare, Kansas Department of Social and Rehabilitation Services, Topeka, Kansas	94
Ms. Robena Farrell, Special Assistant to the Secretary for Children's Issues; Director of Customer Service Division	121
Ms. Linda K. Lewis, Regional Administrator, U.S. Department of Health and Human Services, Region VII, Kansas City, Missouri	125
Ms. Pat Brown, Administration of Children and Family, U.S. Department of Health and Human Services, Region VII, Kansas City, Missouri	136
Session III - "Brown v. Board of Education of Topeka...50th Anniversary Discussion"	
Dr. Norman Yetman, Chancellors Club Teaching Professor of American Studies and Sociology, University of Kansas, Lawrence, Kansas	146
Mr. Charles Scott, Jr., Esq. (Son of lead Attorney for Kansas plaintiffs in Brown) Kansas City, Missouri	173

I N D E X (continued)

Session IV - "Access to Health Care and Medical Services in Minority Communities"

Mr. Edward M. Galan, Regional Minority Health Coordinator, Office of Public Health and Social Science, U.S. Department of Health and Human Services, Kansas City, Missouri 196

Session V - "Fair Housing and Predatory Lending"

Ms. Natasha Watson, Civil Rights Analyst, Office of Fair Housing and Equal Opportunity, Region VII, U.S. Department of Housing and Urban Development (HUD), Kansas City, Missouri 227

Session VI - "Immigrant Populations and Civil Rights in the Midwest"

Mr. Ed Leahy, Coordinator of Immigrant Rights Network of Iowa and Nebraska, Omaha, Nebraska 244

Mr. Elias Garcia, Executive Director, Kansas Advisory Committee on Hispanic Affairs, Topeka, Kansas 254

Ms. Danielle Dempsey-Swopes, Executive Director Kansas African-American Affairs, Commission, Topeka, Kansas 263

Session VII - "Status of Civil Rights Legislation In the Midwest" A Panel Discussion

Mr. Steve Skolnick, Deputy Director, Missouri Commission of Human Rights, Jefferson City, Missouri 278

Mr. Ron Pothast, Executive officer and Legislative Liaison, Iowa Civil Rights Commission, Des Moines, Iowa 289

Ms. Kaye J. Crawford, Director, Salina Human Relations Department, Salina, Kansas 291

Ms. Sharon Red Deer, J.D, Director of Investigations, Nebraska Equal Opportunity Commission, Omaha, Nebraska 297

Mr. William V. Minner, Executive Director, Kansas Human Rights Commission, Topeka, Kansas 304

Closing Remarks/Adjournment 335

1 (Proceedings commenced at 9:03 a.m.)

2
3 DR. MITCHELL: The meeting of the
4 Iowa, Kansas, Missouri, Nebraska and Oklahoma
5 Advisor Committees to the U.S. Commission on Civil
6 Rights shall come to order.

7 Good morning. My name is Earl Mitchell, and
8 I'm the chair of the Oklahoma State Advisory
9 Committee on the U.S. Commission on Civil Rights.

10 I speak before you today on behalf of the Iowa,
11 Kansas, Missouri, Nebraska, and Oklahoma Advisory
12 Committees. With me today are other members of the
13 Advisory Committee. And I think I'll start at this
14 end and have each member state their name and where
15 they're from. To my left.

16 MR. MESA: Reynaldo Mesa, Garden City,
17 Kansas.

18 MR. FREEMAN: Glenn Freeman, Omaha,
19 Nebraska.

20 MS. POWELL: Lynn Powell, Tulsa.

21 MS. PERRY: Mona Perry with the American
22 Indian Council, North Kansas City, Missouri.

23 MR. PLUMMER: Al Plummer, Columbia,
24 Missouri.

25 DR. MALETZ: Don Maletz from Norman,

1 Oklahoma.

2 DR. NAVATO: Alma Navato, St. Louis,
3 Missouri.

4 LES JIN: I'm Les Jin, staff director
5 from Washington D.C.

6 DR. MITCHELL: Let's start at the other
7 end.

8 MS. STASCH: I'm Marcia Stasch from Mason
9 City, Iowa.

10 MR. FAIMON: I'm James Faimon from
11 Lincoln, Nebraska.

12 MS. NEVILS: My name's Nicketa Nevils,
13 and I'm from Wichita, Kansas.

14 MR. PARKER: My name's George Parker, and
15 I'm from Columbia, Missouri.

16 MR. NULTON: Bill Nulton, Prairie
17 Village, Kansas.

18 MR. RODGERS: Chris Rodgers, Omaha,
19 Nebraska.

20 MR. HILL: Gary Hill, Lincoln, Nebraska.

21 DR. MITCHELL: And also with us are
22 Farella Robinson, Civil Rights Analyst;
23 administrative assistant, Joann Daniels; secretary,
24 Corine Sanders. She's outside. She's busy working
25 hard. And these are all from the Central Regional

1 Staff. And as you heard earlier, we have Mr. Les
2 Jin, who's sitting on my left, the staff director
3 of the U.S. Commission on Civil Rights.

4 I and my colleagues from the five advisory
5 committees serve without compensation as the eyes
6 and ears of the Commission. The Committees are
7 mandated by statute to report on all civil rights
8 developments in their respective states to the
9 Commission in Washington D.C., based in part on the
10 work of our committees and similar bodies in each
11 of the 50 states and the District of Columbia.

12 We report to the Commissions who report to the
13 President and to the Congress of civil rights
14 developments. The jurisdiction of the Commission
15 includes discrimination or denial of equal
16 protection of the laws, or in the administration of
17 justice based on race, color, religion, sex, age,
18 handicap, or national origin.

19 We're here today to conduct a public briefing
20 titled "Midwest Civil Rights Listening Tour," with
21 the purpose of identifying and planning future
22 state advisory committee activities.

23 Issues of interest to the Committee are, the No
24 Child Left Behind initiative as it relates to
25 minority children in schools, foster care and

1 adoption of African-American children in Kansas,
2 fair housing and predatory lending, civil rights,
3 and immigrant populations in the midwest. And, the
4 status of state and local civil rights agencies in
5 the Midwest. Information received will be recorded
6 by a public stenographer and summarized for a
7 report to the Commission and to the public.

8 At the outset, I want to remind everyone
9 present of the ground rules. This is a public
10 meeting, open to the media and to the general
11 public. We have a very full schedule of people who
12 will be making presentations within the limited
13 time periods available.

14 The time allotted for each presentation must be
15 strictly adhered to, and I have a gavel. This will
16 include a five to ten-minute opening statement by
17 each presenter, followed by questions from the
18 committee members. And at that point I would ask
19 each committee member, before you speak to please
20 give your name, the stenographer needs to know
21 who's speaking, so give your name first regardless
22 of when -- every time you speak, give your name
23 first.

24 To accommodate persons who have not been
25 invited but who wish to make statements, we have

1 scheduled an opening period for limited remarks
2 immediately following the last presentation.
3 Anyone wishing to make a statement during that
4 period should contact a staff member, Corine or
5 Joann or Farella for scheduling for the later time
6 of the day.

7 We urge all persons, and this is very
8 important, making presentations, to be judicious in
9 their statements. Any person or organization that
10 feels defamed or degraded by statements made in
11 these proceedings shall contact our staff
12 immediately so that during the meeting we can
13 provide a chance for our response. We don't want
14 to leave here with someone feeling defamed or
15 degraded and doesn't let us know, and we find out
16 later. This is very critical and very important
17 for the Commission.

18 The Advisory Committee appreciates the
19 willingness of all participants to share their
20 views and experience with the Committee. At this
21 moment I will turn things over to Farella for a
22 minute.

23 MS. ROBINSON: Good morning and greetings
24 from the Central Regional Office and our very
25 knowledgeable SAC members in the Midwest. Thank

1 you for coming. We're very excited about the day.
2 We have a very dynamic agenda.

3 Yesterday we completed a whole day of planning
4 future SAC activities on civil rights in the
5 Midwest. Stay tuned, you will hear more about us
6 and be more involved in collaborating with
7 community organizations, government agencies on
8 civil rights issues in the Midwest.

9 I would like to turn over the mike to our staff
10 director, Les Jin from Washington D.C. We're so
11 privileged to have him. So many times Washington
12 folk do not come into the vineyards, the field, and
13 we are so grateful that he has taken the time out
14 of his busy schedule to come join us today at this
15 important meeting.

16 MR. JIN: Thanks, Farella. I like being
17 in the vineyards, I'm glad to be here. First, let
18 me thank Mayor Barnes for being here and taking the
19 time to be with us. We appreciate that very much.
20 I think for this country to be successful in our
21 struggle for civil rights, we need to have a
22 partnership, government officials at every level,
23 along with advocates and activists working with
24 ordinary citizens, and I want to thank Mayor Barnes
25 for her contributions to this battle.

1 Let me also say that, like I just said, that I
2 am very happy to be here. My duties in Washington
3 D.C. does not allow me to get out to the field very
4 much, but I particularly wanted to be here for
5 today's public briefing as well as yesterday's five
6 state advisory committee meetings for these three
7 reasons: First, as Commission resources gets
8 tighter every year, the design of yesterday's and
9 today's program involving five state advisory
10 committee is an economical, efficient and effective
11 way to further civil rights.

12 Second, I am incredibly impressed by the topics
13 and panelists in today's agenda. I look forward to
14 adjoin and learning from these presentations,
15 albeit how much is being covered today, I'll
16 probably be exhausted before the day is over.

17 Coming in, I was looking forward to having a
18 frank and productive exchange of ideas with
19 representatives of our five state advisory
20 committees. The discussion we had yesterday met
21 all my expectations. Of course, talk is good, but
22 not worth a whole lot unless we can convert it into
23 positive action.

24 I am confident that we will be able to convert
25 what we are doing here these two days with some

1 concrete, positive gains for civil rights. I thank
2 our staff members, panelists, our regional programs
3 regional staff for their time, effort and
4 contributions. And again, thank you, Mayor, for
5 being here and making our opening comments.

6 Let me turn the mike back over to Doctor
7 Mitchell, and I'm just going to sit back and enjoy
8 the rest of the day. Thank you.

9 DR. MITCHELL: Thank you, Mr. Jin. It's
10 always nice for the Commission SAC persons to be in
11 a different city, different place, and to meet the
12 local leaders. And it is especially delightful to
13 have a mayor come before us, because sometimes we
14 go to places and the mayors usually send their
15 second people to visit with us.

16 This says a lot about the mayor, and we greatly
17 appreciate your presence, so -- and I'll do it in
18 the form of The Tonight Show, here's Mayor Barnes.

19 MAYOR BARNES: Thank you, I like that
20 introduction. I'm delighted and honored to be with
21 you this morning and to welcome you to Kansas City
22 for this very important gathering. I have a deep
23 appreciation for what you do.

24 My own background includes a considerable
25 amount of civil rights activities, going back to

1 the middle 1960s. So, certainly, your commitment
2 at this point in the history of this country, your
3 dedication, is very important to what we want to
4 move forward in the future.

5 Kansas City is a typical community in the heart
6 of America, as all of you also represent, in that
7 we have made great strides in civil rights, and we
8 still have additional changes that need to occur.

9 I'm certainly doing everything I can as mayor
10 in my fifth year to do whatever is possible to
11 create an inclusive environment. We have taken
12 some stands on certain issues that I do believe
13 illustrate that. We have great partners in the
14 Kansas City area. Certainly, one of the best is
15 renowned for his civil rights activities, and that
16 is Mayor pro tem, Al Brooks.

17 So I do believe that at the elected official
18 level, and also, throughout the rest of our
19 community, there is a strong awareness of the
20 journey we are on toward improved civil rights. So
21 we welcome any of your input, your suggestions,
22 your comments, your criticisms, anything of that
23 nature, we will certainly take very seriously
24 within our city government in Kansas City,
25 Missouri.

1 Thank you, again, for the commitment that you
2 have personally made to participate in this effort.
3 I salute you. We're delighted that you are here,
4 and we'll try to keep the thunderstorms to a
5 minimum. Thank you.

6 DR. MITCHELL: So we'll begin. First
7 presentation. And this session No Child Left
8 Behind in schools is a new initiative, and you can
9 read the first statement, a very short formal
10 statement. So we'd like to introduce and bring in
11 Doctor Bernard Taylor. I'm sorry, I've skipped
12 one. Sorry, I didn't mean to skip you. Looking
13 you right in the face there. Mary Davison-Cohen,
14 who is Secretary of Education Regional
15 Representative, Region VII out of Kansas City.
16 Doctor Cohen.

17 DR. DAVISON-COHEN: I know civil rights
18 is on the top burner today. I brought what we have
19 in the department and sent out on civil rights so I
20 have one of those for each of you. I also have a
21 sheet that I would be delighted -- we print a lot
22 of materials in Spanish and English, we have a host
23 of material. I would be delighted to submit -- and
24 I just don't carry all of this stuff, so I would be
25 delighted to send you something. We'll send each

1 of you a packet if you would tell me where to do
2 it. And I've also included one of my business
3 cards. And I answer my own phone, so if you would
4 like to talk with me at anytime, please, don't
5 hesitate.

6 I think the first statement that I need to make
7 this morning is that the Department of Education
8 has zero tolerance for any kind of discriminatory
9 behavior, and I would like to make that absolutely
10 clear. The Secretary would want me to do that.
11 And so, I also would want to bring you greetings
12 from Secretary of Education, Ron Page, and if he
13 were here he would tell you that this is an
14 extremely important event for me to attend, and if
15 he could be here, I know he would.

16 This 50th year celebrates Brown versus the
17 Board of Education, and we are extremely aware of
18 that case because, as you know, Kansas was very
19 high profile in that case. What Brown said was,
20 with all deliberate speed, what No Child Left
21 Behind says is now. And so the Secretary and the
22 President have said, we can no longer tolerate not
23 seeing to it that every child, not just some
24 children, every child reaches his or her potential,
25 and we cannot tolerate the fact that any child is

1 left behind.

2 And so with that in mind, Congress reauthorized
3 the Elementary and Secondary Education Act, and
4 they said, yes, there has been accountability in
5 other reauthorizations, but states were not
6 following that accountability. And so the
7 cornerstone of the reauthorization of the
8 Elementary and Secondary Education Act that we call
9 No Child Left Behind is accountability. The
10 guaranty of results, not just for some children,
11 but for all children. And in order to do this, the
12 Congress, President and the Secretary said, we must
13 crease to let any child hide behind the averages.
14 And that's what they've been doing.

15 As I travel around to the states that I
16 represent, they will say, we have a wonderful ACT
17 average, or our children did really well on the
18 reading test, the average was, and I say, well,
19 some of your children did well, what did all of
20 your children do.

21 And so because we cannot tolerate that anymore,
22 the groups that have historically not done as well,
23 because they have been ignored, are what we call
24 disaggregated and looked at separately. And these
25 are children of poverty. These are children of

1 color. These are children who do not speak English
2 as their first language, and these are children
3 that are special children. And so we look at those
4 children. And if they do not improve, the states
5 have not made their adequate yearly progress, and
6 so there are teeth in the accountability portion of
7 the Elementary and Secondary Education Act that we
8 know as No Child Left Behind.

9 There is also flexibility. Local control is
10 extremely important to our 50 states, and so each
11 state, in order to commit themselves to the tenets
12 of No Child Left Behind had to present to the
13 Federal Government Department of Education an
14 accountability plan.

15 Accountability keeps coming up in the No Child
16 Left Behind Act, because the insistence upon
17 looking at each and every child is paramount. And
18 so there were 50 plans, all of them are different,
19 but the feeling was that each state knew best what
20 they should do to be accountable for all of their
21 children.

22 Parental options is another pillar of the No
23 Child Left Behind Act. Parents, ladies and
24 gentlemen, are, if not the key, the most important
25 key to the success of educating not just some of

1 our children but all of our children. And that's
2 why we print so many of our materials in Spanish,
3 because it is so important.

4 I visited with the executive director of the
5 Hispanic Economic Development Council yesterday,
6 and I said it is so important to include and to
7 touch the parents, our new Americans, we're all new
8 Americans, and if we forget to consider those
9 children of the newest American, then we have not
10 done our job, but we have got to get them engaged.

11 And so parental options, constant communication
12 with parents, many schools are having on their
13 staff interpreters, not just in Spanish but in the
14 myriad of languages that our children speak in this
15 country. The differences make our country strong.
16 If we were all alike, then we would not have come
17 to this stage in the progression of our country.

18 The fourth pillar, Research Based Reforms. The
19 Secretary and the President said, we must give our
20 children annual assessment. And we must be sure
21 that those assessments are proven to do what they
22 say they're going to. One of the states that I
23 represent had 400 different assessment tools that
24 they were using. Many of those tools were locally
25 constructed, and many of them had not been

1 validated. So the Department says, you can use
2 whatever assessments you want, but the assessments
3 that count must be proven to work. It must be
4 validated and they must test that which they say
5 they do and produce that which they say they can.

6 The data that comes from this research-based
7 component is extremely important. You know,
8 without data, we become just another person with an
9 opinion. And so the data that is generated is
10 extremely important, because it immediately
11 identifies the low performers and the low
12 performing schools so that something can be done
13 right away to correct the curriculum, or to adjust
14 the delivery system, or to contact the parents, or
15 do whatever is necessary. The other side of that
16 coin is that the assessments also find the high
17 performers and the high performing schools so that
18 best practices can be adopted immediately.

19 There's another pillar that I think should have
20 been included, and so I also include it because I'm
21 here. And that pillar is attention. And for the
22 first time attention has been given to children
23 that have not been attended to ever before.

24 I have been in education for -- I hate to tell
25 you -- 45 years. This is the 45th year since I

1 started teaching school. And I can tell you that
2 previously there were always groups of children
3 that were not attended to. That is not acceptable.
4 It is not acceptable to the Secretary, it is not
5 acceptable to this President, and it is not
6 acceptable to this Congress.

7 I'm also here to tell you that although it has
8 generated a lot of controversy, No Child Left
9 Behind has done a number of things. It has caused
10 people to focus on education to the extent that
11 they never have in the past. Somebody said to me,
12 we no longer have a focus on whether the buses run
13 on time; the focus now is whether or not all of our
14 children are learning, and that's so important.

15 School districts are making changes. One
16 school district paid for an academic audit to be
17 sure that every child in that district was
18 receiving the best education that that district
19 could provide. Some districts are redirecting
20 Title I funds to schools that are in the greatest
21 need.

22 Omaha, some of you are from Nebraska, and Omaha
23 has John McKeel as the superintendent of Omaha, and
24 he has redirected some funds, just temporarily, to
25 districts. Central Park school in Omaha is a

1 wonderful example of that. And so they have cut
2 the class size. They have found faculty with the
3 appropriate commitment and focus and mindset to
4 make some changes. And indeed, Central Park school
5 has made some changes.

6 The Kansas City School District, and I almost
7 got your job, Superintendent, because they said
8 that I was to speak -- that you were to speak about
9 my job, so I said, well I have to take, then, the
10 superintendent's job.

11 The Kansas City School District has made great
12 strides, and those of us who -- I'm a native
13 Missourian -- and so those of us who take great
14 pride in our state also take great pride in our
15 superintendent because Superintendent Taylor works
16 very hard at what he does and has made great
17 strides in very positive directions and under very
18 difficult circumstances. So I would be the first
19 one to let you know that.

20 There are many, many things that are happening
21 in education that are extremely positive, and we
22 could be here all day talking about them, but I'm
23 here to tell you that changes are being made. And
24 they're being made at the local level. And they're
25 being made by teachers and by superintendents who

1 have now and have also had a very strong commitment
2 to education. And the No Child Left Behind Act
3 simply has redirected and guided the commitment
4 that has always been there.

5 And so I would close by saying that educating
6 some of our children is simply not good enough.
7 And we must, we absolutely must turn it around,
8 because if we do not, we may just get where we're
9 going. And where we're going is turning out
10 children who cannot read, often cannot do basic
11 math, and cannot fit into the economy of our
12 country. And all of our children need to have an
13 education so they can contribute so that our
14 country remains strong, so that we can compete in
15 the world, and we can say, honestly, that we have
16 done our best, not by some of our children but by
17 all of our children.

18 And so I thank you very much for having me this
19 morning, and Doctor Mitchell, if there are any
20 questions, I would be very happy to entertain
21 those.

22 DR. MITCHELL: Thank you very much,
23 11 minutes exactly, pretty good.

24 DR. DAVISON-COHEN: I made it.

25 DR. MITCHELL: That's very good. So

1 thank you very much.

2 DR. DAVISON-COHEN: Thank you.

3 DR. MITCHELL: Are there any questions of
4 the panel?

5 MS. NEVILS: I have a question.

6 DR. DAVISON-COHEN: Yes.

7 DR. MITCHELL: Your name first.

8 MS. NEVILS: Nicketa Nevils.

9 DR. DAVISON-COHEN: Yes.

10 MS. NEVILS: In putting this No Child
11 Left Behind program together, will there be some
12 input from Hispanic, native Americans, Asians in
13 the testing, in putting the tests together?

14 DR. DAVISON-COHEN: I am not sure what
15 the states did. Those tests that were chosen by
16 the states were chosen by the state, and so the
17 Federal Government did not intervene in how those
18 tests were chosen. I would have to surmise that
19 when the accountability plans were done -- I went
20 to the four of them, I don't represent Oklahoma,
21 sorry about that, but I represented -- I was at the
22 accountability plan conversation, and it was my
23 distinct impression that many people were asked.

24 The department is extremely interested in a
25 great cross section of people as well, and the

1 regional departments are in the position at the
2 moment of putting together community advisory
3 groups that represent all of those groups. So I
4 can't answer your question directly because the
5 states made that decision.

6 MS. NEVILS: But I feel that if it's
7 going to be a good test, it should have an overall
8 view of different nationalities, how they live,
9 questions and things that, you know, are -- how do
10 I want to put it -- directed to them, because all
11 of it is learning.

12 For instance, in Wichita, it is up to each
13 school, their principal, the teacher, what they
14 want, how they want to teach their class. There
15 are many multiculture information out there, would
16 say, for instance, in reading, but if she chooses
17 not to pick any stories or whatever on Hispanics or
18 African-Americans, that's up to her.

19 DR. DAVISON-COHEN: I understand.

20 MS. NEVILS: And it's from school to
21 school. So a child at one school may get a lot of
22 information, you know, in that area, and another
23 school, just because a teacher doesn't want to,
24 it's not taught. Now for instance, my 4 and 5 year
25 old, they love Dora the Explorer, and as they watch

1 that picture, they're learning all type of skills,
2 counting and going to the map, asking questions,
3 repetition, where they're going, but they're also
4 learning Spanish. I hear them at the table at
5 breakfast time speaking Spanish, learning how to do
6 their numbers. I think that is a creative way of
7 doing that. But, if that type of program is not
8 taught at this one school, then the children are
9 just -- they're not -- what I'm trying to say is
10 that they are not -- their mind has not been
11 invited to it.

12 DR. DAVISON-COHEN: Well, you make two
13 very important points that I think should be pulled
14 out, because they're extremely important. One
15 important point that you make is consistency across
16 the district, and hopefully, some consistency
17 across the state. I think you're absolutely right.

18 The other major threat that I think should be
19 pulled out and discussed is cultural differences,
20 because cultural differences are extremely
21 important in curriculum and in testing.

22 Your comment is very, very important, and I
23 think -- ask it again when Doctor Taylor steps up,
24 because he really is in a much better position than
25 I, because the -- you know, it's really kind of

1 interesting because the Federal Government does not
2 really speak to individuals, it speaks to states.
3 And it requires the states to interpret the federal
4 policy and enact that, and so I, as a federal
5 employee, was not involved in those local and state
6 decisions, but Doctor Taylor was, and he'll be --
7 but those two threads are extremely important,
8 consistency and culture differences, and so I
9 applaud that comment.

10 MS. NEVILS: In your education, you all
11 have some wonderful books on multicultural --

12 DR. DAVISON-COHEN: Oh, we do. And I
13 would be glad to send all of you a packet.

14 MS. NEVILS: I would love to receive one.
15 But if those teachers don't pick that, if it
16 doesn't mean anything to them, then that's it, you
17 know, that child will miss out for the rest of her
18 life on an opportunity to be able to bond and learn
19 more about their culture.

20 DR. DAVISON-COHEN: Well I have to tell
21 you, this little old lady travels as fast as she
22 possibly can, trying to get that federal
23 information out. And I would appreciate -- and we
24 didn't talk about this beforehand, so thank you for
25 the compliment, but I would be glad to --

1 DR. MITCHELL: We have another question.

2 DR. DAVISON-COHEN: Yes, please.

3 DR. MITCHELL: I would ask the panel to
4 please be specific to questions, and some of the
5 comments you make are testimony, and that's all
6 right, but limit it, please, we have only so much
7 time.

8 DR. DAVISON-COHEN: Yes.

9 MR. RODGERS: I'm from Omaha,
10 specifically, and I attended that school district.
11 And I don't want to --

12 DR. MITCHELL: You name, please.

13 MR. RODGERS: Chris Rodgers. And I don't
14 want to challenge you, but I know that one point
15 you made about the redirected funds, I think that
16 may have been not a continuous redirection because
17 a lot of the school districts get in that part
18 where they have discretionary funding.

19 DR. DAVISON-COHEN: That is correct.

20 MR. RODGERS: The question I have is a
21 statement you made --

22 DR. DAVISON-COHEN: You are correct about
23 that.

24 MR. RODGERS: Oh. The statement you made
25 about No Child kind of steering the attention away

1 from buses and everything into the classroom, and I
2 would be interested to see what the other
3 superintendents say, because Doctor McKeel also
4 states that No Child has made him have to add on a
5 whole new group of staff, not to teach, but to
6 maintain numbers, everything that comes across, so
7 I don't know if it's so much helped to add resource
8 to the classroom, but it helped to add -- they're
9 adding staff you have to put on to keep track of
10 everything that the government's requiring. And
11 the law states to some extent that, it's what that
12 whole philosophy of local control, putting more
13 money in but somehow indirectly is picking up staff
14 and increase costs.

15 DR. DAVISON-COHEN: And the point that
16 Mr. Rogers makes is a point that I hear with some
17 regularity. And I always say, there are certain
18 things that school districts should be doing
19 anyway. And when a law like this comes out -- and
20 really, the truth of the matter is that the basic
21 difference in the reauthorization in 2001, the
22 basic difference between the '94 reauthorization
23 and the 2001 reauthorization is that there are
24 teeth in that accountability.

25 All of these things were there in '94. Testing

1 was there. Accountability was there. All of it
2 was there. And so there are certain things that a
3 school district must do, should do, can do and are
4 doing because they are school districts, and they
5 get money other than from the federal government.
6 And yes, some of them have had to put people on,
7 and some of them have had to re-direct their funds.
8 But I would submit to you that to say that a third
9 grade student should read on the third grade level,
10 not just some of them, but every single one of them
11 that possibly has it within himself or herself to
12 do that should be doing that. To me that's not a
13 requirement that is out of the ordinary or
14 outlandish or anything like that.

15 So, I think that I'm going to have to stick by
16 my statement, that No Child Left Behind has
17 re-focused, and rightly so. So -- and I understand
18 what you're saying, but school districts have some
19 responsibility, states have some responsibility,
20 state legislatures have some responsibility, and
21 I'm going to say that again, state legislatures
22 have some responsibility, and the Federal
23 Government has some responsibilities, and we have
24 got to come to the point where we all have to do
25 what we have to do whatever that may be to educate

1 all of our children.

2 MR. PLUMMER: Al Plummer, Missouri.

3 DR. DAVISON-COHEN: From Columbia?

4 MR. PLUMMER: Yes.

5 DR. DAVISON-COHEN: I'm an old Tiger.

6 MR. PLUMMER: Well I'm a blue Tiger, so,
7 in Jefferson City. Anyway, I root for both.

8 DR. DAVISON-COHEN: Okay.

9 MR. PLUMMER: My question relates kind of
10 to what you were just focusing on in terms of the
11 reading level.

12 DR. DAVISON-COHEN: Yes.

13 MR. PLUMMER: Many of the teachers that
14 I've talked with talk about the challenges of young
15 folks just entering into the elementary school
16 programs not being at the same level.

17 DR. DAVISON-COHEN: Are you talking about
18 Title 1 children or children who don't speak
19 English?

20 MR. PLUMMER: Well, no --

21 DR. DAVISON-COHEN: Just in general,
22 okay.

23 MR. PLUMMER: -- I'm talking about
24 children from English-speaking homes who are not at
25 an appropriate reading level, et cetera, when they

1 come to school.

2 DR. DAVISON-COHEN: Okay.

3 MR. PLUMMER: The question, though, is
4 whether this, the No Child Left Behind initiative
5 has any focus on preschool education programs?

6 DR. DAVISON-COHEN: No. Well, let me
7 take that back a little bit. Head Start, Early
8 Reading, there's a big component for early reading.
9 Now Head Start, I must advise you, is not part of
10 the Department of Education, it's part of Health
11 and Human Services, so we have to set that aside.

12 But within the Elementary and Secondary
13 Education Act, which is basically K through 12,
14 there is an Early Reading component and a Reading
15 First component. The State of Missouri gets a
16 tremendous amount of money -- the figures kind of
17 escape me, but I think it's around \$10 million that
18 the State of Missouri got for -- don't quote me on
19 that figure because I can't remember -- for Reading
20 First. The state retains 20 percent of that grant
21 for professional development.

22 So to answer your question directly, the Act
23 does not speak to pre-kindergarten other than the
24 Reading First grants that are within that Act.

25 Does that answer the question?

1 MR. PLUMMER: Yeah. And I guess my
2 concern there is that, if we're talking about
3 raising reading levels to appropriate grade levels,
4 and you have some kids coming in, and they're
5 starting out behind, that there should be some
6 additional focus placed on --

7 DR. DAVISON-COHEN: Well, and others have
8 said the same thing. It would take a change in the
9 Act, and the next reauthorization is 2006, and
10 other people say the same thing you do, that there
11 needs to be a greater focus on pre-K reading and
12 school readiness, and that may be something that
13 the Congress would like to consider, I don't know.
14 But at moment it's K through 12.

15 DR. MITCHELL: I saw a hand on my right.
16 Yes.

17 MS. VALENCIANO: Rita Valenciano,
18 Missouri State Advisory Committee.

19 DR. DAVISON-COHEN: (Speaking in
20 Spanish).

21 MS. VALENCIANO: My question is, in all
22 the information I see and all that I've read, I
23 don't see any indication about the drop-out rate.
24 And it's extremely hard for Latinos and
25 African-Americans, how is --

1 DR. DAVISON-COHEN: The drop-out rate is
2 one of the criteria that states have chosen, and
3 each state is different, and I can't remember what
4 the percentage for the drop-out rate is for each
5 state that they must meet. There is -- and the
6 drop-out rate is a large part of this. And it is
7 very high for Latinos, it's very high for
8 African-Americans. Extremely high for native
9 Americans.

10 And so, yes, that is a focus of the -- they are
11 many of the act, and, you know, to bring them all
12 out. But, there is a part of the act called the
13 Safe Harbor. And the Safe Harbor says that these
14 disaggregated groups, because some of them perform
15 at an extremely low level, and they are not going
16 to go from that extremely low level -- I mean,
17 children who can't speak English don't do very
18 well. So they can't be expected to go from that
19 extremely low level to proficiency in a matter of a
20 year, or a matter of two years sometimes.

21 And so the states have said, and the No Child
22 Left Behind Act has said, if that disaggregated
23 group does 10 percent better -- progress is the
24 operative word here -- 10 percent better than it
25 did last year, and the school district has met the

1 graduation rate and the drop-out rate that has been
2 mandated by the state accountability plan, then
3 that group shall be said to have achieved their
4 adequate yearly progress. So, yes, the drop-out
5 rate is being looked at -- is looked at in that
6 fact.

7 MS. VALENCIANO: Do you have any
8 statistics so far?

9 DR. DAVISON-COHEN: I don't.

10 MS. VALENCIANO: When do you expect
11 those?

12 DR. DAVISON-COHEN: I would guess -- the
13 report cards will be out in July, so those
14 statistics should really begin to come to the top
15 this year.

16 MS. VALENCIANO: Thank you.

17 DR. DAVISON-COHEN: And if I have your --
18 we'll send you everything that we get. I get a lot
19 of stuff, so I'll be glad to keep you informed as
20 very best I can, because I think that you bring
21 forth an extremely important point, because if
22 we're going to educate children, we have to keep
23 them in school. And I have to go back to the
24 parents as a real key to doing that, and the
25 involvement of the parents in the school is

1 extremely important in decreasing that drop-out.
2 Thank you for asking.

3 MS. NEVILS: I have one last question to
4 ask you.

5 DR. MITCHELL: We have a question down
6 here first at this end.

7 MS. PERRY: You really need to monitor
8 the urban schools. We need more experienced
9 teachers there. We have a high percentage of our
10 minority students in these schools, and they need
11 some good teachers there.

12 And another thing, these urban schools need to
13 put down "Native American" instead of "Other." Our
14 Indian children are putting themselves under
15 "Other" and that does not need to happen in this
16 day and time in these schools. In the State of
17 Missouri, between the ages of 5 to 18, we have
18 13,928 Indian children in the State of Missouri in
19 that age bracket. They are not being counted. And
20 these minority children are high risk children.

21 DR. DAVISON-COHEN: Yes, they are.

22 MS. PERRY: They need to spend more time
23 on these children in these urban areas.

24 DR. DAVISON-COHEN: Ms. Perry came to see
25 me and is extremely active in the native American

1 movement and very, very passionate about what she
2 does, and we're trying very hard. And what she
3 says is true, because many of these native American
4 children will have one native American parent and
5 one not, and so they're "Other," and they're hard
6 to find, and the drop-out rate is tremendous.
7 She's absolutely right.

8 When Doctor Taylor comes up -- I'm saving all
9 the good ones for you -- Doctor Taylor and I are
10 really very good friends -- and when he comes up,
11 Mona, when he comes up, bring that up again, talk
12 to him about it, because that is, you know, a local
13 issue and a school district issue but a very
14 important one.

15 DR. MITCHELL: Are there any more
16 questions concerning the Federal aspect of No Child
17 Left Behind, because some of the questions are
18 local.

19 DR. DAVISON-COHEN: Are not, and they are
20 not in the purview of the Federal Government.

21 DR. MITCHELL: Yes, I see another hand.
22 State your name.

23 MR. BURNETT: Will Burnett. A personal
24 observation, and I hope this doesn't run true
25 particularly with No Child Left Behind. I haven't

1 seen a dollar amount put with this program and how
2 those dollars are allocated. And I'm just trying
3 to find out how the system worked, as it comes down
4 who's responsible for what, whatever, so that we
5 can get these programs in place.

6 DR. DAVISON-COHEN: Mr. Burnett, what
7 state are you from?

8 MR. BURNETT: Kansas.

9 DR. DAVISON-COHEN: Okay. I can -- I
10 just happen to have, and I would be glad to give it
11 to you. This is the final -- this is the final
12 one. Those are all four states, but you can have
13 that because somebody else might want one. And
14 Doctor Mitchell, I'll leave the rest of these with
15 you. I don't have Oklahoma, I'm sorry.

16 DR. MITCHELL: That's all right, I can
17 get Oklahoma.

18 DR. DAVISON-COHEN: And I'll leave this
19 with you. Now, these figures will vary slightly.

20 DR. MITCHELL: Would you use the
21 microphone, please.

22 DR. DAVISON-COHEN: Yes. Sorry about
23 that.

24 These figure will vary slightly, depending on
25 which piece of paper you look at, because the

1 federal monies are allocated quarterly, and they
2 are allocated on the basis of head count, and that
3 head count changes slightly. So they will vary
4 only slightly but not very much.

5 MR. BURNETT: Let me extend this -- Will
6 Burnett again.

7 DR. DAVISON-COHEN: Oh, yes.

8 MR. BURNETT: I see these figure, but I'm
9 trying to find out what federal funding that goes
10 to Kansas.

11 DR. DAVISON-COHEN: You have it in your
12 hand.

13 MR. BURNETT: Is this the level of
14 funding that comes from Federal Government prior to
15 No Child Left Behind Act?

16 DR. DAVISON-COHEN: What you have in your
17 hand goes back and forward, yes.

18 MR. BURNETT: That doesn't answer my
19 question.

20 DR. DAVISON-COHEN: I'm sorry. Ask it
21 again and I'll try.

22 MR. BURNETT: The Federal Government also
23 was funding educational program to state prior to
24 No Child Left Behind?

25 DR. DAVISON-COHEN: Correct, correct.

1 Since 1964.

2 MR. BURNETT: Okay. Now this particular
3 Act that came out, what additional funding --

4 DR. DAVISON-COHEN: Correct.

5 MR. BURNETT: -- that has been put in
6 place for allocation by the state -- from Federal
7 Government to state?

8 DR. DAVISON-COHEN: Correct. This is the
9 graph. This may help a little bit. This is the
10 trajectory of the increase of federal funding
11 that -- this is nationwide, not state-wide, but you
12 can see that the trajectory has gone steadily up.
13 And I'm not -- I can't remember, but I believe that
14 in 2005, Kansas will receive close to 50 percent
15 more than it received a little over three years in
16 federal funding.

17 It's on your -- shown there. But this is the
18 trajectory, and, yes, Mr. Burnett is quite correct
19 that federal funding to the states has gone up
20 steadily, since this one only shows since 90-91,
21 but you are quite correct, yes.

22 Did that answer your question, Mr. Burnett? I
23 don't want to leave it unanswered but I'm not quite
24 sure which direction I need to go.

25 DR. MITCHELL: Let me focus a little more

1 on that question, because I think the central issue
2 from states is not the amount of money that's
3 coming through the Federal Government but the
4 necessity to have more is not enough, and I think
5 that's what the issue is by most states is the No
6 Child Left Behind mandate has placed extra burdens,
7 financial, on states, in which the federal
8 differential is not enough. That's what the issue
9 really is. Am I correct?

10 MR. BURNETT: Yes.

11 DR. DAVISON-COHEN: Well, and I think --

12 DR. MITCHELL: I guess the question would
13 be, is that a concern that the Federal Government
14 looking at?

15 DR. DAVISON-COHEN: Of course. Of
16 course. And I think when I addressed that concern,
17 we have to separate special education out, because
18 the major problem that states have is the amount of
19 funding that they receive for special education.
20 In the 2005 budget, it will be right at 20 percent.

21 Now you have to understand, too, that when
22 the -- and the Special Education Act is separate
23 from the Elementary and Secondary Education Act,
24 and there's still -- that's in Congress. I'm not
25 sure whether the Senate has finally decided or not.

1 But we all await the congressional decision on
2 special education.

3 But the Congress decided that they would
4 authorize that Act -- this is some years ago -- at
5 40 percent, which is an authorization level and not
6 a funding level. So it does make a difference.
7 And slowly but surely, that special education has
8 come up.

9 Three years ago, three and a half years ago, it
10 was about 9, 10 percent of that 40 percent, and in
11 2005 it will be right at 20 percent, which is about
12 half, and that is an issue that the states do take
13 up regularly with their congressional delegations,
14 because any time they want to fully fund that, they
15 certainly have the right to do that.

16 The other issue is that which is federally
17 funded outside of special education. And many of
18 the districts are saying that they do need more
19 money. We all need more money. Part of the reason
20 is that many -- and I cast no aspersions -- but
21 many of the state legislatures have not stepped up
22 and increased their state allocation per pupil, and
23 that's necessary as well. Because, as you and I
24 know, that the federal money, although there are
25 pockets of money for other things, the federal

1 money is, a big percent of federal money that comes
2 into any state is basically a Title 1 money and
3 special education money. And of course the, you
4 know, the federal student aid. But that's in a
5 whole other category too.

6 DR. MITCHELL: I'm going to have to stop.

7 DR. DAVISON-COHEN: I could stay as long
8 as you like.

9 DR. MITCHELL: I know, but we need to
10 move on.

11 DR. DAVISON-COHEN: I know do you.
12 Please, if you have other questions, you can e-mail
13 me, we will get you an answer. You could call me.
14 We will certainly include you and we'll send --
15 you'll hear from me very shortly. We'll send you
16 all a packet. If you have questions, don't
17 hesitate. I do go out on the road, so if I don't
18 get right back to you, I'm doing my best to spread
19 the word. But I will get back to you. And thank
20 you so much.

21 DR. MITCHELL: Thank you very much. Next
22 is Doctor Bernard Taylor.

23 DR. DAVISON-COHEN: I have to give him a
24 hug first.

25 DR. MITCHELL: Yes, go ahead. He'll

1 probably need it. Because you left a lot of
2 questions for him to answer. Thank you, Doctor
3 Taylor, for coming.

4 DR. TAYLOR: Good morning, welcome to
5 Kansas City, and on behalf of the Board of
6 Directors and everyone affiliated with our
7 district, welcome to Kansas City. My name is
8 Bernard Taylor and I'm superintendent of the Kansas
9 City, Missouri School District, and we are one of
10 the largest school districts in the region,
11 although our neighbors all around us have grown as
12 well.

13 The issue that you're discussing, the
14 implications of No Child Left Behind for school
15 districts such as mine, it has been an interesting
16 journey in dealing with this legislation. I agree
17 wholeheartedly with Dr. Cohen, that this is
18 legislation that is important. The term that I
19 have used is laudable. Now this is an old joke,
20 but we were on a radio program, and I said that,
21 and the way it translated back is that, it seemed
22 as if I said a lot of bull. I want to make sure
23 that I'm clear. I want to make sure that it is
24 laudable.

25 DR. MITCHELL: It's in the record there.

1 DR. TAYLOR: Thanks. Because of its
2 intent. I mean, obviously, the focus needs to be
3 on making sure that we education and education well
4 all students who pass through our door, and
5 regardless of their ethnicity, regardless of their
6 scio-economic category, regardless of anything, we
7 should all be focused as educators on doing what is
8 fair, just, appropriate and educational.

9 Now, with that said, the challenge of this law
10 is how we as an urban school district, in
11 particular, look at how we use this law to continue
12 to make progress but not be penalized for not
13 making enough progress. And that is of a
14 particular challenge for our school district,
15 because, again, it is one of the most diverse in
16 this region.

17 Every disaggregated category that there is that
18 is associated with this legislation is present in
19 our school district. Unlike my counter parts in
20 surrounding school districts, we're not often able
21 to capture or have a small category of students in
22 the disaggregated data, so when you look at, say,
23 the Harbor Provision, that's something that's never
24 really going to be applicable in our situation
25 because we are going to have more reportable cases

1 in each category than some of our counterparts will
2 experience.

3 The thing that concerns me about that is that
4 as states look at which schools and which school
5 districts make adequate yearly progress, and
6 sometime the information that comes back is
7 surprising to them because it may be a school or a
8 school district that they did not anticipate to be
9 in that situation, that there may be attempts to
10 say, well, how can we use the rules to preclude
11 that from happening? That's not going to be a
12 reality for a school district like mine. That is
13 extremely diverse and will continue to be that way.

14 The other issue, again, is how we look at how
15 we utilize resources. And I do think the point
16 that was made about the resources and time that is
17 needed to ensure compliance with the law is
18 something that we are going to have to give some
19 consideration to. I do believe a cottage industry
20 is going to be created.

21 If I were going to law school, which I've
22 seriously contemplated, my specialty would be No
23 Child Left Behind compliance, because short of
24 special ed law, I think that's going to be the next
25 area of significant litigation in terms of

1 education in this country. Because people are
2 going to be looking at the compliance issues and we
3 are going to have to staff up to look at the
4 compliance issues.

5 Many of the things that are associated with
6 this law that I believe have lead to some positive
7 facts is the focus on instruction, curriculum
8 alignment and professional development. And I
9 think those things have been present in many, many
10 school districts. I mean, certainly our district,
11 which just gained unitary status last year after
12 being involved in one of the longest-running de-seg
13 cases in the history of the United States, I mean
14 one of the things that a significant investment was
15 made in was professional development, and that is
16 ongoing and that is continuing.

17 The notion about highly qualified teachers, I
18 think there needs to be a more precise definition
19 of what that is, because, quite frankly, just
20 because you have a certification does not mean you
21 are qualified to be a teacher. It means you went
22 to school and someone conferred a degree upon you.
23 It does not mean that you are highly qualified to
24 work in every type of educational setting. And I
25 think the challenge of No Child Left Behind also

1 has to be visited upon are institutions of higher
2 education.

3 I don't produce teachers, we hire them. And
4 oftentimes we have to hire those who are willing to
5 work in our environment or who come into our
6 environments because, quite frankly, no one else
7 will hire them. We have to start demanding of
8 colleges and universities that they do a better job
9 in preparing people to look at two things, not only
10 pedagogical skills, but we also have to look at the
11 aspect inside of education, the human relations
12 aspect, the cross-cultural communication aspect of
13 education. The empathy aspect of education and not
14 the sympathy aspect. Because being poor or being
15 whatever is not indeterminate of not being able to
16 achieve.

17 So we have got to start looking at how this
18 legislation can motivate others outside of the
19 traditional K-12 realm to look at what needs to be
20 done in order to improve the quality of education
21 for all students. I do think that the way
22 resources are disseminated to school districts is
23 also something that's going to have to be looked
24 at.

25 I know that the change in some formula may

1 result in a decrease in Title 1 funding to the
2 State of Missouri, and my understanding of why that
3 is is because our rate of poverty has not declined,
4 it's just that the rate of the percentage of
5 increase is less than in some other areas. So
6 you're going to re-distribute funds to some regions
7 because their rate of poverty has increased faster
8 than someone else's. It doesn't mean you have
9 fewer poor families, it means you just don't
10 have -- they're just not increasing at the same
11 rate as in some other parts of the country. I
12 think you've got to take a look at that. I mean,
13 because being poor is being poor is being poor.
14 And so I'm not quite sure what that nuance is
15 about, but it is something that is going to have an
16 impact on what we're trying to do.

17 The point about early childhood education, our
18 school district pays for early childhood education
19 out of its own operating budget. Exclusive of
20 funds that are received for Head Start and early
21 childhood special education, the district receives
22 no state support for its early childhood program.

23 Now we are talking about transportation to and
24 from, we're talking about a half-day experience,
25 we're talking about serving, roughly, about 1700

1 students, that the district spends \$4 million plus
2 to do each year.

3 The ramification of that is that as we are
4 going through budget cuts, our board just adopted
5 our operating budget for next year, we proposed --
6 at one point we were proposing close to \$30 million
7 in cuts. We have adopted a budget that calls for
8 \$12 million in cuts, but we were able to maintain
9 that program, but I submit to you that if we do not
10 address this issue about how we are going to
11 equitably and adequately fund education, then
12 programs like early childhood education, which are
13 not mandatory in this state, may be the first to go
14 simply because we have to use those resources to
15 pay for programs that are mandated.

16 So the issue that we are struggling with is how
17 we comply with the myriad of requirements, both at
18 the state level and federal level, and oftentimes
19 they're competing with one another. Now the State
20 of Missouri has a proficiency standard that is
21 higher than most states. Because to be considered
22 proficient in this state, you must be performing
23 above grade level.

24 So when the state assessments are given in
25 grades 3, 4, 7 and 8 and 10, 11, when we get our

1 results back, those students in the proficient and
2 advanced categories are actually students who are
3 performing above grade level. Our neighboring
4 states around us may have a proficiency standard
5 that says, if you are at grade level, then you are
6 proficient. So it's those types of disparities
7 that we also have to give consideration to, because
8 if proficiency is not defined in the same way, then
9 how can we truly know who is proficient.

10 The other issue is, again, is how do we look at
11 incremental cases? Do you say that someone has
12 failed or has not met a standard. If you go to the
13 doctor and you doctor says that you need to lose 20
14 pounds, and you lose 19, did you fail on your diet?
15 That's what we're faced with here. And how do we
16 say to our public, the schools are making progress,
17 each year things are getting better, but we didn't
18 reach nirvana so we're not -- we're not what we
19 should be.

20 Now the issue becomes, as a superintendent in
21 an urban school district, that they're going to be
22 people who are going to say, your schools didn't
23 meet adequate yearly progress. Your school
24 district didn't meet adequate yearly progress. But
25 what I have to say to the students and the teachers

1 and the parents is, but look at what we did
2 accomplish. But are we still going to be viewed as
3 a failure? Now I'm realistic enough to know that
4 there are other issues that accompany this debate
5 about No Child Left Behind.

6 I mean, obviously, there are those who see this
7 as a way to make justification for vouchers, for
8 charter schools, for all types of things, and I'm
9 not a charter school opponent, and vouchers, I have
10 just a little bit of a different nuance, because
11 what I want a voucher for is the most exclusive
12 private school that exists in America. I think if
13 it's good for some it should be good for all. I
14 doubt very seriously we're talking about that level
15 of voucher. But what I submit to you is that no
16 matter what we do, in terms of how we fund
17 education, be it in a traditional manner, be it
18 with charters, be it through vouchers, there's
19 going to be a need for a Kansas City, Missouri
20 School District and a Kansas City, Kansas School
21 District, and other public school districts,
22 because there is one thing I do know. There are
23 some children nobody wants to deal with. No one
24 wants to educate them. And there's always got to
25 be a place for those children to go to school. And

1 there's going to be people there who will want to
2 work with them and want to teach them. The issue
3 is going to be, will there be sufficient resources
4 to support those students?

5 So, I hope that if you take anything away from
6 these remarks that I've made this morning, is know
7 this, the only vehicle that we have in this country
8 that ensures that there's an opportunity for
9 everyone to have the best chance for upward
10 mobility, it is a public education.

11 Now I went through -- I'm not a native of
12 Missouri, I grew up in Pittsburgh, Pennsylvania,
13 and I went through from K to 12 in the public
14 school district. And I think I got the best
15 education I could have possibly gotten. And I know
16 full well why that's the case. I went to a school,
17 number one, where people cared about you. I went
18 to schools, two, where the teachers taught and the
19 students wanted to be taught. I went to a school
20 where parents were involved and where parents who
21 couldn't be involved, other adults stepped to the
22 plate and said, you go to work, you tend to what
23 you need to tend to because we have this. I have
24 my children's back and I'm going to have yours,
25 too. And the other thing is that there was a

1 collective on the community to say, let's do right
2 by these kids, because we'll all be the better for
3 it.

4 Again, I think that the intent behind the
5 legislation is correct. Nobody should get a pass
6 for doing well with some kids and, you know, those
7 that just didn't do so well with, that's okay, it's
8 their fault, because that's the other thing that
9 troubles me about this.

10 When the first report about school districts
11 and schools that failed to make adequate yearly
12 progress came out, it was very interesting how this
13 was covered in the media here, because had it just
14 been my school district had been the case, I dare
15 say that it would have been front page news and the
16 lead story on every news station here. When it
17 involves school districts and schools that nobody
18 expected, it was a one-day story. And the thing
19 that came out, and maybe this was inadvertent, is
20 that it was said, well, if it weren't for this
21 group of kids, we would have made it. And that is
22 very, very troubling, if you think about it,
23 because, how often is that sentiment thought, even
24 though it may not be verbalized? So, I think we
25 have to guard against the law of unattended

1 consequence and really focus on what this
2 legislation should be about, continuous progress
3 and support for what it takes for that progress to
4 be made.

5 MS. NEVILS: I have a question.

6 DR. TAYLOR: Yes, ma'am.

7 MS. NEVILS: Okay, the No Child Left
8 Behind initiative will not work unless you get the
9 preschool children.

10 DR. TAYLOR: Yes.

11 MS. NEVILS: I do not want to see the
12 school go in and grab up all the preschool kids
13 because you're knocking out people and jobs, the
14 child care centers, child care homes, you're taking
15 jobs away. I think if, maybe even if the state
16 takes it up, comes up with a program and write it
17 in the form of a grant and say to these daycare
18 teachers and the ones at home, and you also will be
19 educating them, let's do a program where we're
20 going to really push hard for reading. Implement
21 in your program if you want to get this money,
22 we'll do it on a trial basis --

23 DR. TAYLOR: Uh-huh.

24 MS. NEVILS: -- reading. You will read
25 to your children at least 20 minutes a day. You

1 can break it up 10 minutes here. Let them write
2 the creative program. Ten minutes in the morning,
3 ten minutes in the afternoon. You can also say,
4 sequencing is a good start into reading, you will
5 present a sequencing program for the children.

6 DR. MITCHELL: Let me cut into this. One
7 of the things I think we need to be doing is asking
8 questions. It's not our responsibility here to
9 provide testimony for the issue. I'm sorry to say
10 that, but I think we need to ask questions, because
11 some things have already been decided about what's
12 happening, and we need to find out exactly what
13 they're doing. While I appreciate the concerns
14 that we all have, I have concerns, too, but I think
15 we'd like to just ask questions of the persons.

16 DR. TAYLOR: Ms. Nevils, I think to your
17 point, if you employ the Parents As Teachers
18 program in Missouri --

19 MS. NEVILS: Thank you. I appreciate
20 that.

21 DR. TAYLOR: The Missouri Parents As
22 Teachers program I think is an excellent example of
23 what it is that you're talking about. We're
24 cognizant of the fact -- first of all, we have
25 limited capacity for early childhood education.

1 There are far more children that we could serve
2 than we have the capacity to serve. So we know
3 that we have to have conversation with individuals
4 who work in daycare centers, with grandma who's
5 watching the kids, things like that.

6 The point is is that we got to look at how we
7 can move services or make people cognizant of some
8 of the things that need to be going on in the
9 homes, regardless of who the childcare provider is,
10 that can help with those literacy activities that,
11 again, that children should have an experience with
12 before they come to school.

13 I don't think that that is the role of
14 government, necessarily, to provide daycare in such
15 a way that it precludes any other option, but I do
16 think that this issue about universal preschool is
17 something that we need to talk about. I mean, it's
18 interesting that there are people who -- this was a
19 conversation I had with a state legislator, and I
20 was a little surprised at the response, because
21 there was a feeling that kids shouldn't be in
22 school at that age, they should be home with their
23 mothers. And I'm thinking, well, philosophically,
24 you know, I may agree with that but that's just not
25 reality that exists today.

1 So I think that we've got to devise ways in
2 which we can get information into the hands of the
3 childcare provider so that the type of experiences
4 that you're talking about become commonplace
5 regardless of who the childcare provider is.

6 MS. NEVILS: Thank you.

7 DR. MITCHELL: Yes.

8 MR. NULTON: Bill Nulton, Kansas --

9 DR. DANIELS: I'm sorry, I want to
10 apologize. I'm Ray Daniels with the KCK School
11 District, and I'm going to have to leave, I'm
12 sorry. This is a really busy day and I squeezed
13 this in, I thought I was going to go at 9:55 and
14 it's 10:15, and I have a meeting at 10:30 I have to
15 get back to, so I -- all I can say is I agree with
16 what Bernard said. He spoke eloquently, and I wish
17 I could stay with you. If you're meeting later
18 this afternoon, I might be able come back, but I'm
19 sorry, I have to go ahead and leave.

20 DR. MITCHELL: You have to leave right
21 now?

22 DR. DANIELS: Yeah. I'm supposed to be
23 making another presentation at 10:30, and it's just
24 really one of those days for me, and I apologize.

25 DR. MITCHELL: We'll give you

1 five minutes.

2 DR. DANIELS: Okay, give me five. I
3 would agree with a lot of what Bernard said. One
4 thing I would focus on is the quality and positive
5 intent of the law, and I think Bernard said that
6 also. It is the right law, it is the right intent.
7 For the first time the nation has said that we're
8 not going to leave any child behind.

9 The focus is, it doesn't make any difference
10 what you're economic background is, what your
11 ethnic background is, whether you speak English or
12 not, what your ZIP code is, you are going to get a
13 quality education in the United States. That is
14 exactly the right target, that's exactly what the
15 conversation ought to be about.

16 Having said that, there are lots of concerns
17 around No Child Left Behind. It is, probably, the
18 largest federal intrusion at the public schools
19 have ever been. And while there are a lot of
20 things we like, we do get additional federal money
21 from this program, and I will tell you, it's not
22 anywhere near enough, because like Bernard says,
23 you put the federal money in with the state money
24 and we're cutting \$20 million over the last three
25 years. We're going backwards rather than forwards

1 in providing quality education for children. And
2 our fear is that once you start to lose, those
3 programs that make a difference for the kids we're
4 trying to address, you start losing your
5 after-school programs, your alternative care
6 programs, your pre-school programs, the kind of
7 programs that are making a difference, smaller
8 class sizes, hiring more teachers to work with
9 smaller groups, we know those things make a
10 difference, hiring instructional coaches, make a
11 difference, we're going to start dismantling that
12 in Kansas City, Kansas if this continues.

13 While we've seen gains in our academic scores
14 and social areas, if this continues with the state
15 and federal funding -- and I don't want to place
16 blame on either one, I think both of them have some
17 culpability here -- we're going to start
18 dismantling what we've been doing to provide
19 quality education for children.

20 The other thing I'm very concerned about is
21 highly qualified teachers. Simply putting in a law
22 that every student will have a high qualified
23 teacher doesn't make it a fact. And urban school
24 districts are facing quality issues right now
25 around teachers. We're not able to find highly

1 qualified teachers in high school math, high school
2 chemistry, high school physics. We're struggling
3 with that right now. I think you'll find even a
4 lot of suburban districts are struggling right now
5 in those kind of areas.

6 So simply to say there's a law out there that's
7 going to start punishing school districts if you
8 don't have highly qualified teachers doesn't mean
9 there's going to be a lot of people suddenly appear
10 on our horizon, our radar screen, ready to come in
11 and teach those areas. We're going to struggle
12 with that, because the baby boomers, they're just
13 starting to leave. We had 90 some retirements in
14 our school district this year. We normally have
15 about 55 to 60. That's at the first of a flip
16 that's going to start in our district for the next
17 five or six years.

18 There was nothing in the law that was an
19 incentive for people to go into education. If
20 there had been some kind of thing around increased
21 salaries, some kind of additional benefits, some
22 tax credits, something that would have encouraged
23 people to go into education in this state, it
24 wasn't there. We would like to have seen some of
25 that. High qualified teacher fees, we are very,

1 very concerned with those.

2 I also agree hardily with Doctor Taylor in the
3 fact, there isn't an equity issue around urban
4 schools and to urban schools. The level of --
5 there are no many more sub-groups in the urban
6 districts. When you look at our two districts, we
7 have every sub-group. If you look at the Blue
8 Valley District, they're going to have a handful of
9 sub-groups. It's going to be much more difficult
10 for the urban districts to meet all the
11 requirements of all the sub-groups and all the
12 things that have to be met, then it is the suburban
13 districts. We're very concerned about the equity
14 issue.

15 And finally, I would just say, also, that I,
16 too, am concerned about labeling groups of kids.
17 The groups of kids that are being labeled are the
18 ones that have always been labeled. You know,
19 those are the kids that show up in the newspaper
20 when they put the test results out. It's those
21 kids that can't learn, it's the kids that can't
22 speak English, it's the African-American kids, it's
23 the kids that we know traditionally get blamed for
24 not being able to do the work.

25 Folks, it's a poverty issue, it's not an ethnic

1 issue. So when you start talking about dealing
2 with minority kids, we really need to start talking
3 about dealing with kids that are living in poverty,
4 no matter what their race is, because those are the
5 kids that are struggling right now.

6 So I get concerned when a suburban school
7 district doesn't make AYP last year, and the
8 superintendent says, well the reason we didn't make
9 it is because of those 56 Hispanic kids. Now he
10 regretted that statement later, greatly. So that
11 was out there, and we thought about what those kids
12 think when they were identified as the reason the
13 suburban districts didn't make it.

14 So, the kids that have already been labeled,
15 the kids have already been identified, stereotyped
16 as not being able to do this work, here's another
17 instance where they're going to be lifted up in the
18 press and the media as saying, well, the reason you
19 didn't make it is because of these special ed kids,
20 or because of this group of poor kids, or because
21 of this African-American group or Spanish or
22 whatever the sub-group is, they're going to be
23 lifted up again as the reason that that school did
24 not succeed.

25 We know at KCK, Bernard knows at KC, Missouri,

1 these kids can do the work, but they need
2 additional resources, need additional teachers,
3 additional time, additional finances if we're going
4 to take care of all the kids in this country. But
5 right now the financial piece is what we're
6 struggling with. And I do apologize, and thank
7 you.

8 DR. MITCHELL: Thank you very much.

9 MR. NULTON: Dr. Taylor.

10 DR. TAYLOR: Yes.

11 MR. NULTON: Nulton, Kansas. I would
12 appreciate it if you would share on the matter of
13 the drop-out program of the Kansas City Missouri
14 District. Could you tell us the -- briefly
15 describe the program, and what I have found to be a
16 very significant success story for the district in
17 that regard.

18 DR. TAYLOR: And it is. I mean, I will
19 tell you very much that the work that's been done
20 around reducing the drop-out rate has probably been
21 some of the best work that we have done, because
22 our drop-out rate was close to 10 percent two years
23 ago and we cut that in half over the course of the
24 past two years. And part of it has been, we have a
25 very aggressive truancy recovery program.

1 Now, literally, what this means is, we go to
2 every one who leaves the district, and we find out
3 why they left. And this is almost like private
4 investigation work. We've found that students have
5 moved out of the country, we've found that students
6 are enrolled in other school districts.
7 Unfortunately, we found that some students are
8 deceased. But what we literally do, is when we
9 find them, we go out, we speak to them, personally,
10 and it's a whole drop-out recovery process, where
11 we try to give them a range of options for
12 returning to school.

13 Some students are at a point where they dropped
14 out where they had like maybe 22 credits and it
15 only takes 26 to graduate, so it's almost like,
16 okay, if you can make it -- we have night school,
17 summer school, credit recovery through the Novanet
18 program, but it's almost like tailor making a way
19 for that student to get a high school diploma.

20 If they are adequate age-wise, it would take
21 them longer to get a traditional diploma, meaning
22 someone is 17 or 18, and they might have a few
23 credits, we have a GED option program,
24 relationships with Job Corp, places like that. The
25 goal is to get them a GED. Now if they want to

1 persevere to get a high school diploma, we keep
2 students until they're 21. So if someone wants to
3 go that route, they have the opportunity to do so.

4 But it literally is, those who left, we find
5 out where they are, and then we go after them to
6 try to recover what we need. And the department
7 that does this is relatively small, but last year,
8 for example -- what is it -- it's classmates dot
9 com. I mean, it is so elaborate what they do to
10 find these students, it's almost like I think we
11 could do a reality TV series. They leave no stone
12 unturned. And in doing that, it has significantly
13 reduced.

14 I mean, when we went through our most recent
15 state review, there was some healthy skepticism
16 about those numbers, because they said that it's
17 just impossible to do this. But the team that
18 works with this does an outstanding job, and that
19 is one of the things that I do have to say that I'm
20 proudest of is that we figured this out and we're
21 aggressive about it.

22 MR. NULTON: About your prevention
23 program, too, encourage the youngsters who are
24 still in school to stay.

25 DR. TAYLOR: Well, what we've embarked

1 upon, which I think No Child Left Behind did spread
2 it's thinking is we are involved in the high school
3 reform initiative that's patterned after what was
4 begun in Kansas City, Kansas with their First
5 Things First initiative. Ours is called
6 Achievement First.

7 What we've done is taken two service providers,
8 Talent Development High School out of Johns Hopkins
9 University for the curriculum piece, and the
10 Institute for Reform and Research In Education to
11 look at the infrastructure piece, asked those two
12 programs to marry one another. And what we've used
13 to do that is to re-organize how we deliver
14 services at our high schools.

15 So we're looking at small learning communities,
16 a family advocate system, professional development
17 that's focused on quality instruction. And a
18 different way of organizing the day. We have
19 freshman academies now that are focused on getting
20 kids acclimated to schools so that they persist to
21 graduation.

22 So there are a whole host of things that we
23 know we had to do. And part of that was the
24 impetus behind SMOG, but, again, it's, as Ray said,
25 it's trying to balance all of this and comply with

1 the provisions of the law.

2 MR. RODGERS: Real quickly, Doctor
3 Taylor.

4 DR. MITCHELL: Your name?

5 MR. RODGERS: Chris Rodgers, Omaha,
6 Nebraska. The point I want to ask you is, the
7 pre-paragraph that we have states that No Child
8 Left Behind is a complete reversal of the Federal
9 Government's guiding principle of the role of
10 public education being a state and local right.
11 And the fellow superintendent that was here said
12 that this was the biggest invasion the Federal
13 Government's made.

14 Give me your views, because I agree with you on
15 the inadequacy of funding, from a state's stand on
16 a level where they can't comply because of revenue.
17 What do you see as the Federal Government's role to
18 help you deal with funding?

19 DR. TAYLOR: I think that when you pass a
20 law that has specific mandates as well as specific
21 sanctions, I do think that there has to be a way of
22 looking at what you're asking people to do, and
23 whether or not the resources that you're giving
24 them to do it adequate.

25 Now in terms of Title 1 funding, yes, there has

1 been an increase in that funding, but there's also
2 been an increase in the mandates with which you use
3 those funds. Because, again, we have to make a set
4 percentage available for choice options. We have
5 to set aside, I believe it's 20 percent, has to be
6 set aside for choice options.

7 -The difficulty -- now, this is the law and then
8 this is the practical application. We have to set
9 aside that money, which means that money can't be
10 distributed until people make their choices, we go
11 through a very elaborate process to inform parents
12 of their choice options. Last year we had four
13 schools where choice options had to be presented.
14 We went to each school, we had meetings, we had
15 everything laid out, one person shows up.

16 You know, this is like one of those situations
17 where people talk about, I hate Congress but I love
18 my congressman. The reality of the situation is
19 that most people, regardless of what others may
20 think about that school, that school is right down
21 the street from grandma's house and I know my child
22 can get there and get back, and if something
23 happens grandma can get to it.

24 So to address your question, the funding is not
25 adequate because as these mandates increase, the

1 state mandates increase. Now our state monies are
2 declining. We are at a point now where if we do
3 not have a reserve, we would be making some very
4 drastic cuts, based on our state funding.

5 This school district has not had a levy
6 increase in 30 years. A bond issue has not been
7 passed in 30 years. So you understand what my
8 dilemma is. Now my dilemma is, there isn't any
9 more, we're not getting any more, and if we keep
10 spending what we have, we're not going to have any
11 more.

12 So the point is is that this is about
13 commitment to public education, and do you believe
14 in it. And, you know, it's hard for me -- now I'm
15 not a bleeding heart liberal, but, I mean, I do
16 understand the importance of fiscal responsibility,
17 especially after last night. If you'd been with us
18 in the board meeting last night, it was a whole
19 lesson in fiscal responsibility. But I do believe
20 that if you're -- this is just like being a parent.
21 If I tell you to do something, if I tell you I want
22 you to go to college and everything like that, I
23 don't tell you now how you go and how you pay for
24 it is on you, this is what I'm prepared to do to
25 help you. Now I don't have to pay for it all, but

1 I should pay for what it is that I believe is
2 important for you to get out of the experience.
3 And that's the same thing in this.

4 Now I think this is about mitigating some of
5 the other political factors that are a part of
6 this, too. If this is a segway to say, see how bad
7 these schools are, we've given them all this money
8 and they still can't get it right, then we need to
9 say that. We need to be that genuine about it.
10 But if it really is about helping those who need
11 the most help, then what we've got to say is, you
12 have a concentration of poverty. And Doctor
13 Daniels is absolutely correct, this is an issue
14 about poverty.

15 DR. MITCHELL: Another question.

16 MR. PLUMMER: Al Plummer, Missouri.
17 Doctor Taylor, is Westinghouse still a high school
18 powerhouse?

19 DR. TAYLOR: Yes, it is.

20 MR. PLUMMER: I was just checking. You
21 should have asked about Peabody.

22 DR. TAYLOR: That's pretty good.

23 MR. PLUMMER: I've had the privilege for
24 the last two years of travelling from Columbia,
25 Missouri to Kansas City, Council of Special Issues.

1 In fact, I've had the privilege of working with Ms.
2 Fisher and Doctor Butler over Chester Anderson and
3 Doctor Mitchell. I was wondering in relation to
4 that whether, how is -- how are these alternative
5 programs being impacted by the No Child Left
6 Behind? Because as I see it, in terms of the
7 council saying, you don't have it, you know, these
8 kids are right on the edge of potentially some real
9 troubling decisions, depending on what they decide.

10 DR. TAYLOR: Well that's a really good
11 question, because our districts has those
12 alternative schools but we also contract with
13 outside entities to work with our alternative
14 education population. And the issue for that is
15 that while we pay for the service, those scores
16 that come from those schools count in the entire
17 district's total.

18 So, for example, we have programs that have
19 historically been in operation here, and they are
20 separate entities, even though we're paying for
21 seats. And we've had very pointed conversations
22 about what they have to do to step up their level
23 of performance because their student's results,
24 their drop-out rates, their graduation rates, their
25 attendance rates, their performance, those all

1 factor into the district. And that's another one
2 of those nuances that our suburban counterparts
3 don't have to deal with. Because we actually have
4 to pay people in order to increase our capacity,
5 and to be able to do it in a cost-efficient way.

6 The problem with that is often you're working
7 with entities that have a view of what an
8 alternative ed student should be, that, is it
9 congruent with who the alternative ed student is.
10 And so it's trying to look at how you change the
11 face of all that while at the same time make these
12 mandates.

13 I mean, you're dealing with psychological
14 emotional issues. You're dealing with students who
15 are involved in the criminal justice system.
16 Those are the things that are not taken into
17 consideration in this law. You know, that's the
18 reality that we're dealing with. Homeless
19 students. I mean, the notion that you're supposed
20 to be proficient on the state assessment, and you
21 don't have a place to live. I just wondered who
22 sat down and thought of these things when they put
23 this together. I think it's a small feat that
24 somebody is getting to school everyday and
25 attending to what they need to if they don't have

1 some place stable to live.

2 So it's those kinds of issues. Now make no
3 mistake, those are no excuses for us not to do what
4 we're supposed to do. We get paid to do this work,
5 this isn't volunteer work. We get paid to do this.
6 So you know that coming into it. But you're
7 talking about a definition of who you are, what you
8 do that doesn't take into consideration the myriad
9 of factors it impacts.

10 Yes, ma'am.

11 MS. PERRY: On the GED plan, how many,
12 sites, Doctor Taylor, do you have in the Kansas
13 City area, particular GED sites? Is it six or
14 seven?

15 DR. TAYLOR: I think that sounds to be
16 about correct, but I know that we're trying to do
17 more that's web based, so that there's more access.
18 And we're trying to figure out ways to obtain more
19 sites.

20 MS. PERRY: I think there needs to be
21 more sites. Because a lot of these kids have to
22 come from the northeast area, come to 2121.

23 DR. TAYLOR: Right.

24 MS. PERRY: You know.

25 DR. TAYLOR: Right.

1 MS. PERRY: I think that really needs to
2 be looked at. And you were talking about the
3 alternative schools --

4 DR. TAYLOR: Uh-huh.

5 MS. PERRY: -- you've got everything in
6 these alternative schools. And like Deala
7 (phonetic) South, I mean, you know, you've got kids
8 that's court ordered there, and it's hard. At
9 Deala South they really work with them, and they
10 show the concern there.

11 DR. TAYLOR: That's right.

12 MS. PERRY: And they know where these
13 kids are coming from. Not all teachers sometimes
14 do that though.

15 DR. TAYLOR: That's right. Well I think
16 the point, again, is that's the kind of thing that
17 isn't measured on an assessment, you know.

18 DR. MITCHELL: I think we need to take a
19 break. Thank you very much.

20 DR. TAYLOR: Oh, no, thank you all, it's
21 been my pleasure. Thank you.

22

23

(Brief Recess)

24

25

DR. MITCHELL: Reconvene to Session 2,

1 "Foster Care and Adoption of African-American
2 Children." The first person on the agenda is Ms.
3 Millicent Charles, foster care parent, Wichita
4 Kansas. Is Ms. Charles here?

5 MS. CHARLES: Yes.

6 DR. MITCHELL: Oh, there you are, I'm
7 sorry. You were here yesterday.

8 MS. CHARLES: My name is Millicent
9 Charles and I am from Wichita, Kansas. I'm a
10 foster parent, I have been for the last five years.
11 And I've had many good placements in the past years
12 but I do share some concern. And I would like to
13 start with, I share some concerns about the foster
14 care --

15 DR. MITCHELL: Please speak into the
16 microphone.

17 MS. CHARLES: Again, I do share some
18 concerns about the foster care system. The first
19 one is there's a need for more resources, for the
20 natural parents to fulfill their court obligations.
21 Most of them can't afford the classes. And this
22 makes them, just throws them into a dilemma where
23 they have to end up having their rights terminated
24 because they haven't fulfilled everything that they
25 were supposed to do.

1 The classes and everything, some of them are a
2 hundred dollars apiece, and these people are making
3 minimum wage and they don't have any money to do
4 it. So I've seen a couple, two cases where the
5 mother really tried to do everything she could to
6 meet the obligations but there was just no funds
7 for her.

8 The second one is, I was wondering why relative
9 placements don't receive the same reimbursement for
10 the relative placement. And I think it's very
11 important for the children, that their relatives be
12 (inaudible). If they are taken away from their
13 natural parents that they're able to be put back
14 with their, you know, relatives where their
15 environment -- where they are in a comfortable
16 environment instead of placing them wherever in
17 whose ever home that's available.

18 And I'm wondering, if we had any
19 African-American (inaudible) in the State of
20 Kansas. I know there is some in Wichita, Kansas,
21 and I do know of an attorney that has applied for
22 the position that works with SRS, and she also
23 worked as a substitute as a guardian ad litem, and
24 she never -- and she applied for the position and
25 she never received it.

1 And our minority children are being placed in
2 rural areas is a culture shock. Their Medicaid to
3 be contained, and then they're put on farms to
4 work. I've seen this happen on several different
5 occasions in a lot of different cases. People have
6 shared this with me about their children, things
7 they were going through. Lots of them end up
8 running away. Then they be put in these little
9 institutions where they keep them until they're 18
10 because they're so out of hand and they get so
11 belligerent that they feel like, you know, they're
12 not being treated fair, and they just don't want to
13 deal with it, they just give up. And these are
14 some of the children that are really not bad
15 children, and they didn't ask for the situation
16 that they were put it, but their mom took a
17 different route in life and it made them end up in
18 awful situations.

19 And I personally know of two children that was
20 placed in a small town where there were no other
21 African-American families, and only the foster
22 children in the system were there. And they were
23 made fun of, and it was a very uncomfortable
24 situation for them. And the other African-American
25 children there, too, the children made fun of them

1 because they knew that they were a foster child
2 because there was no other families there.

3 This particular little guy, he ran away, and he
4 was out on a dark street for a long time by himself
5 until finally he got someone to come along and pick
6 him up and bring him here. It's very dangerous how
7 these -- you know, how -- how -- if you just think
8 about how this could have ended up, thank God that
9 it didn't, but these children are just not being
10 treated fair. And I truly feel empathy for our
11 children.

12 My question is, is this justice or just about
13 the system? You know, they're not being treated
14 fairly, I would say the minority children. I've
15 been a foster parent for five years, and I have
16 once yet to see a Caucasian child in an
17 African-American home. Now maybes it's just me,
18 maybe I just haven't seen that, but I have not.
19 And I'm sure there are some placements somewhere,
20 but I haven't seen it. So I'm open now for any
21 questions from anybody.

22 DR. MITCHELL: Questions from the panel?

23 MS. NEVILS: Nicketa Nevils. Do you feel
24 that there is any biasness in the system against
25 African-American women, children, and the foster

1 parents, African-American foster parents?

2 MS. CHARLES: Well, I feel that they set
3 the parents up for failure when they don't show the
4 correct way to achieve, you know, the task.

5 MS. NEVILS: That's for the parents?

6 MS. CHARLES: Uh-huh.

7 MS. NEVILS: And what about foster
8 parents, African-American foster parents? How were
9 they treated in the system? Can you elaborate a
10 little bit on that?

11 MS. CHARLES: Well, I think that they
12 give long-term placements to -- they take -- I
13 think they give long-term placements to Caucasian
14 families. I think that they try to make the
15 stipulations harder for us to try -- put it like
16 this: In order to be able to become a foster
17 parent, you have to, you know, do a KBI check and
18 all this.

19 And there's a lot of African-American people,
20 you know, that have not always had it easy all
21 their lives, so somewhere down the line they've
22 done something, but there may come a point in your
23 life where you want to straighten your life up and
24 you want to do better. And then, you know, they go
25 all the way back and they bring up these issues

1 that happened maybe 20 or 30 years ago. There's
2 not really nothing drastic, and then that
3 eliminates you from being a foster parents. So, I
4 think that that's something that needs to be
5 addressed.

6 DR. MITCHELL: Yes.

7 MS. ROBINSON: Ms. Charles, as a foster
8 care parent, what has been your experience in terms
9 of being treated differently? How have you been
10 penalized in terms of your relationship with the
11 foster care system and the child that is in your
12 home?

13 MS. CHARLES: Well, I had a prior
14 placement for two years, and they were in my home
15 for two years, and they abruptly moved them out of
16 my home in one week. The statute for the state
17 says you have to give them a month's notice in
18 order to reintegrate these kids in another home.

19 They took them out of my home, the children.
20 The oldest child was making straight As. At this
21 point -- they took them out of my home to put them
22 in a potential adoptive home, and after they left
23 my home, after taking them out abruptly, the
24 potential adoptive home put them back in the system
25 after a week because they were crying and

1 everything. To this date they've been in three
2 different ones.

3 And these children -- this particular young
4 lady, she was a straight A student, and I was
5 really going to adopt her, and they said that now
6 she hates school, her hair's falling out. And I
7 just think that they didn't take it under any
8 consideration for me or the children, they just
9 treated them like little animals, you know, to be
10 tossed around, and they're not looking at it like
11 they have little hearts and minds.

12 DR. MITCHELL: Question?

13 MS. PERRY: Yes. They do pass them
14 around. I've worked with kids that have been in
15 foster care, and they've been in 10 and 12 homes,
16 just switching one home to the other. Well
17 something happened here, something happened here.
18 I think something needs to be done about that. And
19 you're in Kansas?

20 MS. CHARLES: Uh-huh.

21 MS. PERRY: Well something needs to be
22 done about it in Missouri, you know, because they
23 do not need to switch these kids around, because
24 they get in one foster care place, and they get
25 used to it and everything, then come up, and it

1 depends on the case manager, okay, so and so, or
2 maybe they don't like that foster care home, I
3 mean, the case manager. So there's a lot of things
4 involved in that.

5 MS. CHARLES: That's right. There could
6 be a personality conflict with the case manager.
7 You know, I've had children to come to my home that
8 have been in home after home after home, and I see
9 no problem with them, all they want is love and
10 affection. They want to know that they're cared
11 about. They want to know that they have a voice.
12 They want to know that they're in a home where it's
13 not so structured, you do this, you do that, you do
14 that.

15 When I let them into my home, most of them call
16 me Aunt Meme. They come in, they're happy, they
17 know that they're loved. When they come in I
18 welcome them with a big hug and let them know, my
19 motto is, you be nice, I be nice; you be bad, I be
20 firm, you know, and we get that understanding from
21 the beginning, and I -- you know, they send me the
22 most terrible -- I've had some of the most terrible
23 children, they said wouldn't do anything, and they
24 went up and made straight As. And I've had those
25 situations happen on several occasions.

1 These children are just looking for love,
2 because there's not been any stability in their
3 life. They're looking -- and if you're able to
4 show them a life style that they've never had
5 before, you know, they will appreciate it, you
6 know. And even though they may come from a house
7 that's, you know, filthy, and this and that and the
8 other, well when you bring them into your home and
9 you show them the way you live, they can get with
10 the program.

11 But it's like they just toss these children
12 around. It's like, they take them out -- like they
13 took the three little children out of my home, and
14 the little girl, the 10 year old, she was a
15 straight A student, most likely to succeed, was in
16 everything at school, and I was behind her with
17 everything. I said, oh, you can be anything you
18 want to be in life. And now they say she's making
19 straight F's. The little child, it just destroyed
20 her. Now they have her on medication. You know,
21 that's their first alternative, medication, they're
22 bipolar, they're, you know, they're chemically
23 unbalanced, and instead of addressing the situation
24 and putting these kids someplace where they're
25 loved, you know, most of these people don't care

1 about these children, all they're looking for is a'
2 paycheck.

3 DR. MITCHELL: Yes.

4 MR. PLUMMER: Al Plummer, Missouri.

5 Ms. Charles, I have two questions, I'll kind of
6 combine them. One, do you see any difference
7 between funding that is received for the foster
8 care parents, say, white children -- or minority
9 children versus white children? Are there
10 differences in the funding that's received
11 depending on the children coming in the home?

12 The other question I have is, if you were to
13 change two things in the system, what would you
14 like to see happen?

15 MS. CHARLES: Okay. First question, do I
16 see any funding, difference in the funding with the
17 children? No, not really, because it just depends
18 on the level of the child that you have what, you
19 know, what situation they be in.

20 As far as what I would like to see be
21 accomplished, I would like to see more
22 African-American children or minority children put
23 with their own race instead of put out on rural
24 areas and, basically, taking them back to slavery,
25 medicate them and making them do what they want

1 them to do.

2 And these children, like I say, at present we
3 have two in my home that the one, he ran away from
4 this particular city, and as I said, they were
5 laughing at him in the school, they all knew that
6 they were -- there were no African-American
7 children families, period, in the whole town. But
8 all the children were foster children and all the
9 kids made fun of them, they wouldn't let them
10 participate in anything.

11 And then this other little young man, he came
12 to my home, and they said that he's 16 years old,
13 they let him come to Kansas so he could go to
14 independent living. He told me, where he was he
15 was on a pig farm, and he had worked for a year and
16 a half, he said, I couldn't stand the smell no
17 more, I just wanted to get out of there. So when
18 he came to my home he was so happy to receive his
19 own room, his own TV, his bathroom and
20 everything -- I mean, everything was just set up
21 for him, and so he was like, I don't want to go to
22 independent living. And his mentality is not ready
23 for independent living.

24 And so the social worker called the day before
25 yesterday, and she told him, this is why we brought

1 you to Wichita, to be in independent living, you
2 will go on independent living, and just really told
3 the little boy off. And when he hung up the phone,
4 his head down, I said, honey, what's wrong? She
5 said they're going to make me go independent
6 living. I just told them that because I wanted get
7 away, I didn't want to be on that farm any longer.
8 I'm like, you know, this is really sad, something
9 needs to be done. Nobody seems to be addressing
10 this issue. It's like, you're in the foster system
11 now, we got you, we do what we want to do with you
12 and that's it.

13 And that was like a breach of contract when
14 they took those children away from me. I didn't
15 even have time to prepare these children. They
16 were just -- I'm sure they was just distraught, you
17 know. This is why -- and this is the way they're
18 doing our children.

19 MR. PLUMMER: You mentioned placing more
20 African-American children in African-American
21 homes. What do you think the reason for that,
22 that's not happening as much? Is it because there
23 aren't as many African-American foster care
24 families? And if so, is that a recruiting problem
25 by those entities that are responsible for getting

1 responsible families to do foster care programs?

2 MS. CHARLES: Well, that's what I said.

3 The stipulations are so tough at this point where
4 they can't really -- a lot of them don't qualify
5 when they do the KBIH, because somewhere along the
6 line, we as a black race know that we've all had
7 problems and we haven't always had it easy. And
8 somewhere down the line, when you were 20 years
9 old, maybe you did something wrong. Maybe you
10 broke the law in some kind of way. Well that still
11 lingers over your head. So that's a way of keeping
12 the African-American foster parents out. So, most
13 of them aren't given -- most, when they have the
14 classes, they weed them out like that. And then
15 they're able to place our kids in their home.

16 DR. MITCHELL: Yes. Quick question.

17 MS. PERRY: Okay. Quick one. I think
18 the workers, the SRS workers, I won't say all,
19 some, and DFS workers, they're all intimidating to
20 the families and to the relatives --

21 MS. CHARLES: Yes, they are.

22 MS. PERRY: -- when they come in. And
23 these families come in scared, afraid -- and I've
24 been shot down a lot of times, when I talk about
25 Indian child welfare. And they still don't get it

1 about the cultural. They're not trained in that or
2 anything. So that's it.

3 DR. MITCHELL: That was a statement.

4 MR. PARKER: George Parker. I've always
5 thought that foster homes are difficult to
6 supervise, especially if you've got hundreds and
7 hundreds of them and so forth, but have you ever
8 heard of boarding schools being talked about as
9 some alternative in Kansas, for example?

10 In Missouri we had a legislator put in a bill
11 one time for boarding schools. The rich people in
12 England and America have been using boarding school
13 for, what, 500 years? They're a proven way of
14 children being educated and have manners and so
15 forth. But I don't know that we've really explored
16 it, except Newt Gingrich one time here about four,
17 five years ago, he recommended orphanages, and when
18 he used that word, it went over like a lead
19 balloon. Nobody wants orphanages. But boarding
20 schools are a proven way of doing children, and I
21 wondered if you had any -- talk about it, has
22 anybody ever tried to explore that in Kansas, I
23 wonder, as an alternative or something additional
24 to the foster homes.

25 MS. CHARLES: Well not to me, I'm just a

1 foster parent.

2 MS. ROBINSON: Ms. Charles, I have a
3 question. What are your rights as a foster parent
4 in regards to children that are placed in your
5 home, and you have a disagreement about some of the
6 actions or the policies and procedures related to
7 that child? What are your rights?

8 DR. MITCHELL: For example, when they
9 took the kids from you without giving you notice,
10 what rights do you have in terms of dealing with
11 that?

12 MS. CHARLES: Right. Well, you're
13 supposed, within seven days, if you disagree,
14 you're supposed to be able to go through Judge
15 Fragle, Al Fragle, and have a hearing. Well I
16 wrote a letter to him and asked for a hearing, and
17 I got no response. Then I went up there and I
18 spoke with Jackie Hemway, his secretary. She said,
19 I'll have you on the docket within a week. I
20 received no response. I informed her that I would
21 be going on vacation for a month. She said, well,
22 okay, I'll get you on before -- when are you
23 leaving? I said in two weeks. She said, well I'll
24 get you on before you leave. And we're supposed
25 to -- they're supposed to give us a 30 day notice

1 to prepare the children.

2 You know, you can't take a child -- this baby
3 that I had was a month old. He was two years old,
4 and they just took him out of my home after a week.
5 He was calling me mama, you know, and I took him to
6 visit his mom, he would scream, he didn't want to
7 bother with her. So I was all that he knew. And
8 then they took this child away. And from what the
9 children, his mother was telling me, the children
10 said they would put him in a room, shut the door
11 and let him cry. And then, finally, after a week,
12 they put him back into the system and said they
13 didn't want him. And as I stated, it's been three
14 different placements they've been in since they
15 left my home. And they could have call me back,
16 but they took my license away from me and said I
17 was under investigation for no reason, they
18 couldn't come up with no substantial evidence.
19 They took my license away from me for a year, and
20 I'm just now getting it back about a month ago.
21 And I was asked -- I said, well, I want you to send
22 me these allegations in the mail. Put them on
23 paper, let me see what I was supposed to have done.
24 I've received nothing to this day.

25 DR. MITCHELL: I have one follow-up. Are

1 there any foster parent advocacy groups? Groups
2 that support?

3 MS. CHARLES: No.

4 MS. NEVILS: Ms. Charles, I want to thank
5 you for being a foster parent. That's very
6 courageous. I also am a foster parent and an
7 adoptive parent. When the agency that you work
8 for, when they gave you your materials and whatnot,
9 did you have a black map trainer?

10 MS. CHARLES: No.

11 MS. NEVILS: Did they give you any
12 information about black children, African-American
13 children as far as their skin, their hair or
14 anything of that nature; was that included?

15 MS. CHARLES: No.

16 MS. NEVILS: When you go to workshops
17 that they offer, is there any workshop that you
18 have ever attended that had to do with
19 African-Americans? Their life-style, their family?

20 MS. CHARLES: No. Addressing their
21 culture, no.

22 MS. NEVILS: How are African-American
23 women treated with the white social worker?

24 MS. CHARLES: They're very arrogant
25 toward you. It seems like whenever there's a

1 problem, it's all on you. It's like, instead of
2 being appreciated, instead of them appreciating us
3 for the effort we're putting out, it's like there's
4 always something. They're always coming up with,
5 well, you did this, you didn't do this, I need you
6 to do this by a certain time and if you don't do
7 it, you know, then there will be consequences.

8 MS. NEVILS: Do they seem to be
9 combative?

10 MS. CHARLES: Right. Yes.

11 MS. NEVILS: Do you know why it exists?

12 MS. CHARLES: No. I would just say it's
13 because I'm an African-American.

14 MS. VALENCIANO: Ms. Charles?

15 DR. MITCHELL: Yes, another questing.

16 MS. VALENCIANO: Rita Valenciano,
17 Missouri State Advisory Committee. I'm over here.

18 Do you ever have contact with other foster
19 parents and are you aware of them experiencing
20 these same things?

21 MS. CHARLES: Yes. I called a meeting at
22 my home and asked some foster parents to come over
23 so we could just sit and talk about the different
24 situations and the things that we were going
25 through. And none of these issues were addressed,

1 and, you know, we, like, say for instance, my
2 social worker at the time, I was asking her about
3 my license. She couldn't tell me anything. And
4 then she was telling me that -- then when I called
5 this other agency, they couldn't tell me anything,
6 and then everybody was just going -- they just go
7 back and forth, you know, it's like nobody knows
8 nothing.

9 MS. NEVILS: So therefore, you would say
10 that there is possibly no accountability?

11 MS. CHARLES: There isn't.

12 MS. NEVILS: They keep you -- I don't
13 want to put words in your mouth, but do they keep
14 you back and forth, bouncing, no accreditability at
15 all?

16 MS. CHARLES: That's right. It's just,
17 they send you to this person, that person. This
18 person will have an answer, that person will have
19 an answer. It's just like going back and forth,
20 and it's whatever they want is going to be done.

21 There was this one incident with this young
22 lady, there was a personality conflict, and every
23 time I would call her, she would get upset with me.
24 So she tried to make things really hard for me.
25 And I told her, I said, you're not doing me a

1 favor, you know, I'm doing these children a favor.
2 I was living -- I've been married 30 years, and
3 I've been a foster parent for five years, and I
4 just wanted to open my home to give some love to
5 some needy children, I said, so why don't you
6 appreciate us instead of always trying to knock us
7 down. Sometime commend us for what we're doing.

8 DR. MITCHELL: Any other questions? One
9 last thing.

10 What is it, if you could have your druthers,
11 what would you like to see done?

12 MS. CHARLES: I would like to see more
13 African-American minority foster parents. I would
14 like to see -- I would like -- situation in the
15 form where there's rural areas, cities, where
16 there's no African-American minority families in
17 the cities, I think it's wrong to send our children
18 out there and work on their farms and stuff. I
19 think it's just another way of slavery. And I
20 would like to see that really be addressed. And I
21 would just like to see, you know, more
22 African-Americans, make it be where more of them
23 can be qualified for the position, because it's,
24 you know, they've made the stipulations pretty
25 tough.

1 And I think if a person is, you know, when they
2 were young, if they broke some law and did some
3 things, I think after 20 years of growing up -- you
4 know, when you're a child you think as a child, but
5 when you become a man, you put childish ways aside.

6 DR. MITCHELL: Thank you very, very much.

7 MS. CHARLES: Thank you.

8 DR. MITCHELL: Ms. Roberta Sue McKenna,
9 Assistant Director for Child Welfare. Thank you.
10 Would you pull that microphone down?

11 MS. MCKENNA: Yes. That's a problem I
12 often have. How's that, can you hear me? Quite
13 frankly, people generally don't have a problem
14 hearing me. I learned when my father was working
15 the swing shift that I have a voice that carries
16 and have found that to be helpful, but it wasn't
17 helpful at that time.

18 I want to thank you, first, for the opportunity
19 to be here and for including foster children and
20 foster care on your agenda. It's a critically
21 important area that is often overlooked by the
22 general public and by panels like yours that
23 address other social problems, and I think it's --
24 I'm just very grateful to be here and for this
25 issue to be included in your agenda.

1 I expect to learn as much as I teach today, and
2 part of what -- but what I'm not going to be doing
3 is addressing specific case issues. However,
4 because children are individuals, they come from
5 families, they come from communities, and their
6 concerns are individual, we do in the Kansas
7 Department of Social and Rehabilitation Services
8 have a special assistant to the secretary whose
9 responsibility is to handle customer concerns,
10 particularly those arising out of concerns for
11 children's welfare.

12 So I'd like to point out Robena Farrell is here
13 today and is willing to talk to anyone who has
14 concerns about a specific case. She will take
15 that information, will follow up on it and be glad
16 to address those concerns.

17 Our approach is to address each individual
18 concern in a way that resolves that concern, but
19 also uses that concern and the process used to
20 resolve it in a way that improves the system as a
21 whole.

22 Now to our topic today. Historically,
23 African-American children have been
24 over-represented, this proportionately represented
25 in the foster care population. Currently in

1 Kansas, African-Americans are 6 percent of our
2 population, 20 percent of our foster care
3 population, and what's a bigger concern to me,
4 29 percent of the foster care population with the
5 case plan goal of adoption. That tells me that
6 we're not doing -- we're not doing something right.
7 And it's especially a concern, because I look back
8 over time, and we haven't impacted those numbers
9 significantly. They've been static since about
10 1997, '98. I mean, it will go up a percentage
11 point or down a percentage point, but they've held
12 steady over that period of time.

13 Kansas was an early -- chose early on to move
14 away from racial matching as a goal in placing
15 children either in foster care or adoption. That
16 was a big issue in the 70s and 80s, and when I
17 first began working professionally in this field,
18 it was still a major cause of dissension among
19 child welfare advocates and the child welfare
20 community.

21 The concerns are, exactly as described by
22 Ms. Charles, the need for children to be with
23 people they are comfortable with and identify with
24 and who understand them in ways that are difficult
25 to learn in a class.

1 The problem with that kind of matching is that
2 we were identifying that as a reason that
3 African-American children were staying in foster
4 care longer and were not being placed in foster
5 family homes as quickly as non African-American
6 children.

7 That position was the one adopted by the court
8 in, I think, 1997, racial matching of foster homes
9 and racial matching for the purposes of foster care
10 or adoption was prohibited by the United States
11 Congress. And so it was fortunate that in Kansas
12 we had begun moving away from that practice earlier
13 in order to avoid the delays in permanence for
14 African-American children.

15 Because it was such a controversial issue, say,
16 passing a law doesn't change people's hearts.
17 We've all learned that. And because there were
18 strong feelings in the social work profession and
19 in the foster care community, it was a challenge to
20 communicate those new requirements and monitor for
21 compliance. And we wanted to do that in a way,
22 just as when we address any individual problem, we
23 wanted to do that in a way that would move the
24 entire system toward improved practice and better
25 meeting the needs of individual children and

1 families.

2 And I should mention here, I've added this to
3 my notes, that monitoring for compliance and for
4 continual improvement of our system takes place in
5 the child welfare program through the Children and
6 Family Service Review, which is a partnership
7 between the state and our Federal Government and
8 which assesses the state, identifies issues that
9 need improvement, and then a program improvement
10 plan is in place. And our program improvement plan
11 includes the need to recruit and retain additional
12 foster homes and to increase our -- I'm sorry, to
13 decrease the number of moves each child in the
14 system experiences.

15 The national standard for that is two moves
16 within the first year of placement. That's two
17 much for the child. The first move is too much for
18 the child. And I'm going to add a personal note
19 here, I grew up in the military. I wasn't in the
20 military as a child, my father was in the military,
21 and I experienced frequent moves. I actually went
22 to 22 grade schools.

23 So the issue for me of children moving in
24 foster care where they not only have to change
25 schools but have to change families is personal. I

1 want as part as one of my career goals, to
2 eliminate that kind of trauma for a child; that
3 waking in the night and not knowing where the
4 bathroom is. That's not something any child should
5 have to experience.

6 What we're doing to address this and other
7 concerns is a family center practice initiative.
8 What it means is that we approach each family,
9 birth, foster and adoptive with an inquiry mind,
10 respectfully asking that family to teach us who
11 they are, what their values are, what their culture
12 is, and what they see their strengths as being and
13 how we can help them address the issues that have
14 brought them to our attention.

15 The Family Center Practice Initiative is fairly
16 new in Kansas, but it has begun in the first phase.
17 We have had every social worker in both the public
18 and the private sector go through the initial
19 introduction to Family Center Practice, which tells
20 them why we're doing this, and that we're doing
21 this, that it's a long-term initiative, and what
22 our expectations of staff are going to be.

23 At the same time, we've been -- and what that
24 does is, that it allows us to get to know those
25 families more quickly and more thoroughly so that

1 when a child must be separated from the people who
2 are caring for them when they're introduced to us,
3 they're more likely to be placed with a relative
4 who is, of course, more likely to be part of the
5 same culture and background and to know and
6 diminish the trauma of the child's move from that
7 family home of origin. It enables us to rally
8 those supports around the family of origin so that
9 even that temporary out-of-home placement is, we
10 hope, less and less likely to happen.

11 As we moved into implementing the requirements
12 of the inter-ethnic placement provision, financial
13 requirement that we not delay or deny a placement
14 based on race, we became aware -- and one of the
15 primary issues that people were saying is that
16 white people don't know how to take care of black
17 people. That was something that I didn't
18 understand and very grateful to a black social
19 worker who straightened me out quickly. And that
20 white people tend not to understand the meaning of
21 hair care and skin care for African-American
22 children.

23 What I understand today is, that what my mother
24 said, you can't go out looking like that, people
25 will think no one loves you, is exactly what

1 African-Americans are telling us when they say, you
2 can't allow a child's hair to be neglected.

3 And so in preparation for this and knowing that
4 that was an issue, that having brought to the
5 attention of the panel, I checked, and we did have,
6 over the year ending June 30th, last year, we had
7 11 programs across the state for foster parents on
8 cultural sensitivity, diversity, but only three of
9 those addressed the specific issue of hair care and
10 skin care.

11 And quite frankly, even if we'd had a great
12 deal more, it wouldn't have been -- it wouldn't
13 have met the need. Because, while 15 percent of
14 our current foster parents are African-American,
15 and that's -- 6 percent of Kansas is
16 African-American, so we're doing fairly well on
17 that score, not good enough, but when you don't do
18 racial matching in the placement, our expectation
19 that a Caucasian foster parent would know enough to
20 know that they needed that workshop, or that they
21 knew enough to ask for that information was
22 unacceptable.

23 What we've done is to review -- and I don't
24 know how many of you understand that in Kansas we
25 have a very rich system, a public private

1 partnership where the public resources are
2 supplemented by contracts with private child
3 placing agencies who are paid for their work, but
4 also are not for profit agencies who do their own
5 fund raising and are in a position to enrich our
6 system in many ways.

7 Each of them is addressing this issue in their
8 own way. We are in a position to choose the best.
9 And it looks like our next step is to standardize
10 this approach so that when an African-American
11 child is placed in a non African-American home, the
12 resource family receiving that child for care will
13 receive a brochure or a CD which will provide them
14 with, first, the information that there's something
15 here they need to know; and second, what the
16 information is; and third, resources on the
17 Internet and in their community so they have some
18 place to go for additional information.

19 Our experience has universally been that
20 African-American foster parents and community
21 members and professional hair people are willing to
22 volunteer their services to make sure that we're
23 meeting this need in the way that we need to so
24 that that is not an issue for children who are
25 already suffering the trauma of being in foster

1 care, and who definitely don't need another message
2 that they're not loved. In fact, we need to send
3 very strong messages.

4 I did want to say, too, that the rights of
5 foster parents in Kansas are quite limited. They
6 step up and open their hearts and their homes for
7 children who desperately need that resource. And
8 what Kansas law says is that they're entitled to
9 information, as much information as we have or can
10 gather before they make the decision to take that
11 child into their home, and as much information as
12 we have or can gather throughout that child's stay
13 in their home. That is such a no-brainer, because
14 we're asking these individuals to take care of
15 children 24/7. In order to do that job they
16 absolutely need as much information as we can
17 provide to them.

18 The second is, that if a child has been in
19 their home for six months or longer, they're
20 entitled to written notice before the child is
21 moved. Upon that written notice, they have the
22 right to go to court and object to the notice.

23 The only exception to that is if they sign a
24 waiver saying they don't need the notice, and
25 everyone on that list, that's the guardian ad

1 litem, the foster parent, the judge, everybody has
2 to sign off on it in order to not have the notice.
3 Or there has to be an emergency. If there's an
4 emergency we need to inform the Court, and there's
5 not a firm time line on that.

6 I wish I could tell you that our staff complied
7 with that requirement a hundred percent of the
8 time. I can tell you that we're working toward
9 that, that it's a serious requirement, and our
10 expectation is the staff comply with it, because
11 it's the law, but also because we are asking --
12 because children need for the adults in their lives
13 to treat each other respectfully, and the least we
14 can do, if we're going to move a child, is to say
15 to the person who's been feeding them breakfast and
16 putting them to bed at night, we've got other plans
17 and we need to know what you think about it.

18 I stand for questions.

19 DR. MITCHELL: Thank you.

20 DR. NAVATO: Alma Navato, St. Louis,
21 Missouri.

22 In your department, how many, would you say,
23 the number of African-American social service
24 workers compared to the Caucasian workers?

25 MS. MCKENNA: Approximately 11 percent of

1 our social workers are African-American, identify
2 themselves as African-American.

3 DR. NAVATO: And of those numbers, is the
4 criteria for them to continue as a social worker
5 higher, the standards to get in as a social worker
6 higher than the Caucasian?

7 MS. McKENNA: No.

8 DR. NAVATO: Applicants?

9 MS. McKENNA: No.

10 DR. NAVATO: And the second question I
11 have is, what would you say is the reason that
12 there is a major increase in the number of
13 African-American or minority children that are
14 placed in foster homes or foster care?

15 MS. McKENNA: I don't think there is an
16 increase. I think there's a disproportion --
17 African-Americans are disproportionately
18 represented in foster care. But that's not new
19 information. It's also not new that we haven't
20 been able to address that.

21 I think the reasons for foster care are
22 complex, and the reason for the disproportionate
23 representation of African-Americans is complex. I
24 haven't read a study that answers that definitively
25 for me, but I agreed with the gentleman earlier who

1 said that class and poverty are huge issues.

2 One of the studies that I was most interested
3 in was one that addressed -- we've sought to
4 recruit staff who look like the population we
5 serve, and with the expectation that that would
6 help us address the disproportionate
7 representation, and what the study -- and I don't
8 know that it's been replicated, but it was very
9 well done and quite large, said, that, it doesn't
10 change the decision-making or the approach of the
11 social -- the social worker's race does not make a
12 difference in the decision-making or the approach,
13 and the conclusion of that study is that class
14 plays a bigger role than does race in the
15 decision-making.

16 DR. MITCHELL: Yes.

17 DR. MALETZ: Don Maletz from the Oklahoma
18 SAC. One thing I just don't understand here, if
19 there's no emergency, and the foster parent is
20 still willing to care for the child, why is the
21 child moved?

22 MS. MCKENNA: TO be closer to their -- it
23 could be any number of reasons. To be closer to
24 family, to go back home, to be reunited with
25 siblings.

1 DR. MALETZ: Well is there any assessment
2 made of the child's readiness to move one more
3 time, or is it just made essentially
4 administratively, some sibling is available or
5 what?

6 MS. MCKENNA: All decisions should be
7 made in a case planning -- by the case planning
8 team, which would include, and will in the future
9 more often include the resource family, the person
10 providing care for the child.

11 That's currently policy, but it's not one
12 that's followed as completely as it needs to be.
13 And it needs to be more than a paper compliance.
14 We need -- when we bring people to the table, the
15 biological family should be at that table, too.

16 When we bring people to the table, it needs to
17 not be to give them a case plan and get their
18 signature, it needs to be to get their input, to
19 listen. And that's part of -- The Family Center
20 Practice Initiative is to address that exact issue.
21 But even though we're not doing as well on that as
22 I want us to, I think it would be rare that a move
23 would be without consideration for the impact on
24 the child.

25 DR. MITCHELL: Mr. Plummer first, then

1 we'll come back down to you.

2 MR. PLUMMER: Yes, thank you, Doctor
3 Mitchell. Al Plummer, Columbia, Missouri.

4 Don and I are on the same wavelength here
5 because that was where my question was going,
6 because I think earlier in your presentation, and I
7 hope I didn't get this wrong, and you can correct
8 me, you said that the national standard is two
9 moves per year?

10 MS. MCKENNA: In the first year.

11 MR. PLUMMER: In the first year.

12 MS. MCKENNA: That's all we're measuring
13 right now, nationally. Am I right?

14 UNIDENTIFIED PERSON: Two moves, total,
15 over the life.

16 MS. MCKENNA: Okay. Two moves, total.

17 MR. PLUMMER: Oh, two moves, total. So
18 it's not -- I guess what I'm trying to assess, and
19 I know it might depend on the number of years a
20 child is in the program, but how frequently are
21 they moved?

22 MS. MCKENNA: It depends on the length of
23 time they're in the program, and it depends a great
24 deal on the child. And I'm looking to see if I put
25 our moves down. We're not meeting the national

1 standard.

2 UNIDENTIFIED PERSON: (Inaudible).

3 MS. McKENNA: Pardon?

4 UNIDENTIFIED PERSON: (Inaudible).

5 MS. McKENNA: I know I didn't meet the
6 standard but I can't remember where we were.

7 MR. PLUMMER: Hold on. Let me back up,
8 Ms. McKenna. I know you have it, and I don't want
9 to interrupt your response to the question, why
10 does that standard exist, the two moves in the
11 first year; why is that?

12 MS. McKENNA: Because moves -- the
13 standard is two moves for the child's length of
14 out-of-home stay, that they would have no more than
15 two placements in that time. And it exists because
16 moves are bad for children and we need -- if we're
17 going to remove them from their families to provide
18 them with stability during that out-of-home stay.

19 The problem comes with what we count as a move,
20 and when children come in to care and need a level
21 of structure that is not possible in a family
22 foster home, and those issues are addressed, it's
23 appropriate to move the child to a less restrictive
24 environment.

25 MR. PLUMMER: Okay, I think I'm grasping

1 now. I was thinking two moves per year was a
2 standard, a minimum standard as opposed to a
3 maximum standard.

4 MS. MCKENNA: Oh.

5 MR. PLUMMER: So I'm clear on that. But
6 who -- how -- the determination, the rationale for
7 moving a child is, is that a standard -- the
8 criteria, is that criteria established at the
9 federal level, state level, or local level?

10 MS. MCKENNA: I'm going to start and see
11 if I'm answering your question. The decision is
12 made at the local level by a case planning team.
13 And that needs to be so because they're the ones
14 who know the child and the family and the resources
15 in their community the best.

16 That decision is made within a framework set by
17 state policy. The state policy is set within
18 guidelines and requirements from the Federal
19 Government.

20 MR. PLUMMER. Thank you.

21 DR. MITCHELL: First Doctor Thompson, and
22 then Ms. Powell.

23 DR. THOMPSON: What systems do you have
24 to monitor the actions and the implementation of
25 these policies, not just moves, but policies in

1 general by the case managers and their supervisors?

2 MS. MCKENNA: It's an overlay, and
3 actually, one of the perceptions is that foster
4 care is not monitored; the truth is that there's a
5 great deal of monitoring. In each case, no child
6 comes into custody for out-of-home placement
7 without the involvement of a court. So court
8 oversight is there for every child in every case.
9 And in Kansas, that includes appointed
10 representation for parents who cannot afford to
11 retain counsel --

12 DR. THOMPSON: Excuse me. Let me
13 interrupt you because that's not what I'm talking
14 about. What I'm asking, is how does the federal
15 system monitor those states that are receiving
16 funds from the Federal Government for welfare, how
17 do they monitor the abusive behavior of case
18 managers on African-American foster homes, and
19 other providers?

20 MS. MCKENNA: We're monitored by our
21 federal partners through the Children and Family
22 Service Review. And that as a result of the
23 review, a program improvement plan is developed,
24 and we report quarterly on our progress or lack of
25 progress on the specific issues in our program

1 improvement plan.

2 But that's not -- that doesn't monitor case
3 specific. That's monitored by SRS through
4 supervision and case reads, and reviewed by the
5 central office.

6 DR. THOMPSON: So if I understand you
7 correctly, that you don't have a mechanism that
8 really observes or has hands-on information about
9 what individual case managers and their supervisors
10 do that is abusive toward foster parents and other
11 providers?

12 MS. McKENNA: No, that would not be what
13 I was saying.

14 DR. THOMPSON: Oh, okay.

15 MS. McKENNA: We have for each, in
16 addition to the court system, there are supervisors
17 and then data collection in terms of how cases are
18 moving and what decisions are being made, and then
19 a case review system to validate that information.

20 DR. THOMPSON: And that was the quarterly
21 review that you mentioned earlier?

22 MS. McKENNA: One of the results of that
23 process is a quarterly report to our federal
24 partners.

25 MS. NEVILS: Okay. Nicketa Nevils. I

1 have three questions and I'll go through them
2 quickly.

3 First of all, the statistics that you gave
4 earlier about this hair and skin information, where
5 was it showed at? I mean, where was the workshop
6 at? There was certainly none in Wichita. There
7 has never been anything like that taken place in
8 southeast Kansas. So where are you getting your
9 statistics from that you already have something
10 like this of nature? And the workshop that you
11 had, what people got this information?

12 MS. MCKENNA: The Children's Alliance of
13 Kansas is responsible for coordinating training for
14 resource families, and the information is on their
15 calendar.

16 MS. NEVILS: Servicing what area?

17 MS. MCKENNA: The state. And it says
18 where it is. And any foster parent can go to any
19 training provided by any sponsoring agent.

20 MS. NEVILS: I have never seen anything
21 like that from the Children's Alliance, because,
22 you know, I would like to go to something like
23 that. I have never seen anything like that in
24 southeast Kansas been given.

25 It is obvious that this system that exists was,

1 when it was put together, black Americans were not
2 taken into consideration, when this was put
3 together. I mean, that's obvious, anybody can see
4 it. Because if it had been, some of the things
5 that we're talking about would not exist.

6 Two, there is a conflict with African-American
7 women and the white women in the system. They show
8 more gratitude or they gravitate more to the black
9 man if he's trying to -- maybe he wants to get his
10 child back or whatever, they will play to that, but
11 when it becomes an African-American woman, there is
12 a conflict. I've had people over and over tell me,
13 you know, the social worker doesn't like me, she
14 talked to me rudely, she disrespects me. And this
15 is happening over and over.

16 I know, if you pull, start a paper trail, you
17 can find it over and over, and every woman will
18 tell you that. And it's kind of hard because they
19 don't know why it exists because we all women, but
20 for some reason there's a vendetta, something going
21 on, a secret order, that when it comes to black
22 women dealing with white women and the children,
23 they will gravitate more to a man if he's involved
24 than a woman --

25 DR. MITCHELL: Let me see if I can ask a

1 question based on the comments.

2 What procedures do you have for handling
3 complaints?

4 MS. MCKENNA: Depends on the complaint,
5 but if all else fails, Robena Farrell, the special
6 assistant to the secretary gets involved and
7 investigates and resolves it.

8 DR. MITCHELL: All right. I guess, being
9 more specific, what rights do the foster parents
10 have in terms of complaints with the agency as
11 opposed to going to the court system, when it goes
12 to the court system that's very different.

13 MS. MCKENNA: They can -- in Kansas,
14 foster parents are sponsored by private licensed
15 child-placing agencies. So that agency is a
16 resource to them. Because those agencies compete
17 with each other for foster parents, they have the
18 option, if that sponsoring agency isn't meeting
19 their needs, they have the option of transferring
20 to a different sponsoring agency. And then we,
21 because we do business with those agencies, oversee
22 their work and can follow up on concerns that
23 aren't resolved within that.

24 The licensed child placing agencies and the
25 foster parents are regulated by a different

1 executive branch agency, the Kansas Department of
2 Health and Environment, and they, too, will follow
3 up on concerns.

4 DR. MITCHELL: Ms. Powell had a question.

5 MS. POWELL: Do you know what the
6 percentage of your children are in the system
7 because one or both of their parents are
8 incarcerated, and if you know that, do you know
9 what the ratio breakdown of those children are?
10 And do those parents receive some kind of training
11 or classes when they're coming back out of the
12 system in order to help get their children back to
13 them?

14 MS. McKENNA: I don't know the percentage
15 of children whose parents are incarcerated. I do
16 know that a long-term incarceration is one of the
17 statutory criteria that can be considered in making
18 a decision about termination of federal rights.
19 And that incarceration does not relieve staff of
20 the obligation to maintain a child's connection to
21 a birth parent, including visitation, and does not
22 relieve staff of the obligation to provide the
23 support necessary for a successful reintegration.
24 All of that will depend upon the reason for the
25 incarceration and the length of time that

1 individual is expected to be in prison.

2 MS. POWELL: What do you consider the
3 long sentence for a parent to be terminated of
4 their rights?

5 MS. MCKENNA: That would depend on the
6 age of the child and other circumstances in the
7 family, whether there were relatives available who
8 could care for the child. Many people who go to
9 prison are able to find substitute care for their
10 children that don't involve the state.

11 MS. NEVILS: I have one more question.

12 DR. MITCHELL: We have other people who
13 have questions. It's going into lunch. Mr.
14 Burnett.

15 MR. BURNETT: Couple of questions here.
16 And what I think is that --

17 DR. MITCHELL: Let me make -- excuse me.

18 MR. BURNETT: My name is Will Burnett.

19 DR. MITCHELL: Excuse me, let me make one
20 statement. Let me address the panel. Please don't
21 force me to be rude and cut you off with testimony,
22 but please ask your questions.

23 Ask your question, please. Go ahead.

24 MR. BURNETT: Will Burnett. And to
25 moderator, I don't think I'm (inaudible) anyhow.

1 We really haven't asked a whole lot of
2 questions, and I think we're not afraid but we
3 don't want to offend anyone.

4 We have not come to grips with that of color
5 with our level the administration, what we was
6 talking about, and we do not have -- to me, this is
7 me -- have the knowledge or the expertise to deal
8 with all types of situations that you are
9 confronted with.

10 My question to you is, how can we help to bring
11 about the necessary changes from the administration
12 all the way down to that of the social workers?

13 MS. MCKENNA: I started out by saying how
14 grateful I was that you were including us in the
15 program, and I think that is what you can do.
16 Being asked what you will do to help has kind of
17 taken me aback, and I don't want to miss the
18 opportunity. The light and the questions are
19 helpful. I guess the other is to understand the
20 complexity of child welfare, and the -- not -- and
21 this, again, came up in the earlier, to not move to
22 simple solutions or require simple solutions for
23 very complicated problems.

24 MS. STASCH: I'm Marcia Stash, way down
25 here.

1 DR. MITCHELL: Go ahead.

2 MS. STASCH: I have a question in that
3 you spoke about training for your foster parents,
4 and my question is, how do you -- what method of
5 notification do you have for these parents to find
6 out about this training, where it is, what it is,
7 and, also, oftentimes the training is not in the
8 area in which they live, and, financially, this may
9 be a hardship for them to get there, and if they're
10 encouraged to go, what are your rulings or what do
11 you do as far as financial assistance, also,
12 because I'm hearing people say that they've never
13 heard of this training; how do you get the word
14 out?

15 MS. MCKENNA: It goes out through the
16 sponsoring agencies, and it's also available on the
17 Children's Alliance website.

18 Foster parents are required to have a certain
19 number of annual trainings a year, and each
20 sponsoring agency works very hard to make sure that
21 they each get that and they have opportunities that
22 are convenient to them.

23 One of our sponsoring agencies host a
24 conference every year where all the foster parents
25 are brought in for the weekend to stay at a very

1 nice hotel, they're children are taken care of and
2 go to a separate conference, and they get their
3 annual hours, almost all of them in that weekend.
4 That's also rewards and luncheons and -- it's a
5 wonderful idea. But it varies, depending on the
6 sponsoring agency. And obviously, we need to do
7 better.

8 MS. STASCH: I have just another
9 question, and this has to do with disabilities.
10 You have children that come in to your system that
11 have disabilities --

12 MS. MCKENNA: Yes.

13 MS. STASCH: -- of one form or another.
14 What do you do to train these foster parents on the
15 handling and dealing with children with various
16 disabilities?

17 MS. MCKENNA: We actually recruit
18 specifically for that purpose, so that when a child
19 with disabilities comes in, the ideal is that we
20 have recruited someone with the skills needed to
21 meet that individual child's needs.

22 The other issue that comes up with disabilities
23 is parents with disabilities who are not parenting
24 in a way that -- who are parenting differently.
25 And that, too, is something that we need to work

1 with our staff about so that the disability itself
2 doesn't become the basis for removal, that we work
3 with the parent and provide support so that the
4 child and -- and this is not, there's not, in my
5 mind, a competition between parent's rights and
6 children's rights.

7 Children need their parents, and we need to
8 support children in remaining connected to those
9 parents. And right now we have two volunteers who
10 are going through our training material for the
11 purpose of improving insensitivity to the needs and
12 issues of disabled parents, parents with
13 disabilities.

14 DR. MITCHELL: We are running really
15 behind schedule so we need to move a little faster.

16 MS. FARRELL: I'm sorry for the
17 irregularity of this, but I work a little bit more
18 with people that contact us and want to give input
19 into your system about things --

20 UNIDENTIFIED PERSON: Would you speak
21 into the microphone?

22 DR. MITCHELL: You name, first.

23 MS. FARRELL: Yes. I'm Robena Farrell,
24 and I am the special assistant to the secretary,
25 Janet Shalonski (phonetic) for children's issues,

1 and I'm also the director of our customer service
2 division.

3 And regarding just the concerns, the questions
4 about what can people do to have input into our
5 child welfare system, how can we work better
6 together, I would just like to say that some of the
7 concerns that are being expressed here today have
8 been brought to our attention fairly recently,
9 within the last couple of months, and I am very
10 open to what has been told to me about things that
11 we need to change. You know, the skin, education
12 about skin, hair care, more cultural sensitivity.
13 There's all kinds of things that we do need to
14 learn and improve upon. And so we have different
15 advisory boards and can receive input that way.
16 We're considering that with some existing boards
17 that we had.

18 We have the ability to connect people like Ms.
19 Nevils, I've talked to her about being a resource
20 for the Children's Alliance that does our training,
21 to learn from that, so there's all kinds of ways
22 that we can work together, and I think we need to
23 have some further discussions about the specifics
24 of that, and I'm certainly open to that.

25 We met with a group of disability advocates

1 that are concerned about how we are interacting
2 with parents with disabilities, you know, and that
3 we need more cultural sensitivity about that, and
4 we agree, that's something that's in our training a
5 little bit but not enough. So we're talking to
6 them about how to do those things. And we do have
7 to be open and continue to work with everybody that
8 has more information that we need to consider and
9 utilize in our work. So, willing to talk more and
10 set up more specifics is kind of a message I wanted
11 to convey.

12 DR. MITCHELL: Yes. One more question.
13 We need to cut this off because there's a lunch.

14 MS. PERRY: In the state of Kansas, do
15 they get legal advice from Legal Aid for the
16 parents and the grandmothers or grandfathers?

17 MS. FARRELL: Not necessarily from Legal
18 Aid. Parents have the right to have an appointed
19 counsel, grandparents do not.

20 MS. PERRY: Grandparents do not?

21 MS. FARRELL: Grandparents are
22 automatically parties to the -- they're given
23 notice and the opportunity to appear and to retain
24 counsel, but they don't -- they do not have the
25 right to appoint counsel in Kansas. Actually, it's

1 unusual, not all states appoint counsel for parents
2 from the very beginning.

3 DR. MITCHELL: Mr. Parker, do you have a
4 question?

5 MR. PARKER: I'd like to ask one quick
6 thing here. Number one, how many total foster
7 homes do you have? And then, what's the routine,
8 the routine assignment for supervision? Is there
9 one supervisor for every 10 homes or 20 homes? I
10 just want to know the routine thing.

11 MS. MCKENNA: I don't have those numbers
12 in my head or with me.

13 DR. MITCHELL: Could you provide them to
14 us?

15 MS. MCKENNA: I certainly can.

16 DR. MITCHELL: Yes, that will help.
17 We'll attach it to the record. Thank you very
18 much.

19 We're 20 minutes into our lunch schedule, so,
20 my suggestion is that we move on and press on, and
21 I will ask you, again, to please refrain from
22 testimony but ask your questions, and
23 presentations, please stay close to 10 minutes.

24 We have one more before lunch, and that's Ms.
25 Linda Lewis.

1 MS. LEWIS: I'm getting hungry, too, so
2 I'll do my best to go rather quickly, but the
3 preceding presentations, I think, were
4 extraordinary in terms of bringing to light factors
5 that we are seeing across all of our states, so I
6 think that you're doing good work here bringing
7 these ideas forward.

8 My name is Linda Lewis, I'm the regional
9 administrator for AFC here in Kansas City, and
10 we're responsible for the child welfare programs in
11 addition to a number of other programs.

12 We are also very grateful to be asked here
13 today, and we hope that this discussion does help
14 us, going to what the gentleman said at the end
15 here, one of the best things that could happen out
16 of this is somewhere along the line we figure out
17 some way to work together, because we're dealing
18 with a long-term problem here that is of great
19 concern to us.

20 I've asked some people to join me because you
21 may have some very practical question. Pat Brown
22 works for ACF, she works for me. She's our
23 regional expert on child welfare, and she's really
24 our executive in charge of all of our state and
25 tribal programs in Iowa, Kansas, Missouri and

1 Nebraska. She was formally with the Missouri
2 Division of Family Services a number of years ago,
3 and we stole her because she knows an awful lot
4 about this stuff, and so we're very proud to have
5 her.

6 Fred Lang is my colleague who is the manager of
7 the OCR's regional office. We may want to get into
8 some discussion on the application of MEPA and
9 Title 6 as they apply to this, and Fred's office is
10 responsible for that and I'm very grateful he could
11 come here today.

12 I think to move us along, let me give you,
13 perhaps, just a couple of findings. I don't know
14 how many of you looked at the Pew Commission report
15 that came out this last week. If you haven't, I
16 suggest you do that because it's a nice piece
17 drawing together a whole lot of understandings
18 about what's going on and, perhaps, some
19 understandings of things that need to be done,
20 generally, about foster care and adoption.

21 I was quite taken with it because it matches my
22 knowledge and experience, and I've been in child
23 welfare for 30 years. So for an old person, let me
24 just tell you, this stuff makes some sense to me as
25 I looked at it. It's a good report. I want to

1 send you to it.

2 When you look at that report, there's just a
3 little piece of it that I think speaks to what
4 we're worried about here today. First of all, the
5 report tells us that kids, the number of kids in
6 foster care has fairly stabilized. It's grown
7 since the 1980s, but it's stabilized, and about a
8 half a million of our nation's kids are in foster
9 care, and that's just about a half a million too
10 much if they're going to be there very long, for
11 all kids. So just start with that.

12 The report went on with some statistics that I
13 think framed the discussion in terms of, this is
14 what really is out there, both nationally, and I
15 want to tell you, it reflects a lot of what's going
16 on in our four states of Iowa, Kansas, Missouri and
17 Nebraska where we do our practice.

18 This report gives us a picture of disparity for
19 children of color in foster care, especially
20 African-American kids. While children of color
21 represent approximately 33 percent of all kids in
22 the United States, they are 55 percent of the
23 foster care population. Of these children,
24 African-American children face the gravest
25 disparity. They are 15 percent of the national

1 population, and this is really hard to come to
2 grips with. Yes, they are 38 percent of the foster
3 care population.

4 The Pew Commission says that these disparities
5 exist despite evidence that there are no
6 differences in the incidence of child abuse and
7 neglect, according to racial group. What we're
8 really talking about here is when you look at
9 foster care you can't look at it over here as a
10 piece.

11 In front of foster care is what happens when
12 children are in their own home, the entryway, and
13 who has to go through that entryway, and that's
14 something I don't want you to lose as you go
15 through your work on this issue. These disparities
16 exist at every stage of a child's journey through
17 the foster care system. Children of color enter
18 foster care at a higher rate, they stay longer, and
19 they leave at a slower rate than white children.
20 Children of color are also far less likely to be
21 reunified with their parents. And this is
22 something we have to think about.

23 Furthermore, there have been studies that
24 indicates that children of color in foster care
25 receive fewer services, are less likely to have

1 service plans, and visit with their parents less
2 often. These children and their families receive
3 fewer services prior to placement.

4 The question always is why is this going on,
5 and I have to say, as was said before me, this
6 particular picture, the numbers change but the
7 proportions don't. And since the 80s, this has
8 been sort of what we have seen as a basic picture.

9 The Pew Commission says that studies suggest
10 varied and complex reasons, including limits on the
11 use of kinship permanency option. I think
12 Ms. Charles referred to permanency or guardianship
13 as one of the things that needs to be thought
14 about, and the State of Illinois has done some
15 tremendous work in that regard that has made a lot
16 of difference for kids. It is not a common
17 practice in our region.

18 The other issues, and I think we've touched on
19 them, are the economic and social vulnerability of
20 families of color. And then there's the issue of
21 possible bias and certainly lack of cultural
22 competence on the part of the staff. In this
23 regard we're talking across all children of color,
24 and that is something that we're seeing in our
25 work.

1 MEPA, and I think some of the earlier
2 presenters were referring to state and federal
3 statutes, MEPA was enacted in '94, and it was
4 amended by the Inter-Ethnic Adoption Provision,
5 Section 1808 of the Small Business Job Protection
6 Act of 1996. This amendment, it removed some, what
7 turned out to be somewhat misleading language in
8 the original provision that spoke to the use of
9 certain things as the sole purpose of different
10 decisions.

11 In any event, what it really did was make quite
12 clear that discrimination is not to be tolerated.
13 It also strengthened compliance and enforcement
14 procedures, including withholding of federal funds
15 and the right of the aggrieved individuals to seek
16 relief in federal court.

17 The three mandates we have under MEPA do talk a
18 little bit, it prohibits federally-funded agencies
19 from delaying or denying a child's foster or
20 adoptive placement on the basis of race, color,
21 national origin of the child or the respective
22 parent. It prohibits these agencies from denying
23 prospective parents the opportunity to be foster
24 parents or adopt a child on the basis of the
25 respective parents and child's race, color or

1 national origin.

2 And this is the part that we've been talking
3 about a lot, and it's the part that I think we tend
4 to gravitate to in ACF. It requires states to
5 diligently recruit foster and adoptive parents
6 reflecting the racial and ethnic diversity of the
7 children in the state who need foster and adoptive
8 homes in order to remain eligible for federal child
9 welfare assistance. And this has got to be part of
10 the whole puzzle, otherwise this whole thing
11 doesn't make an awful lot of sense.

12 Basically, the goal is decreasing the length of
13 time. Anyone with a child knows you're only a
14 child so long. You know, keeping a child in foster
15 care without a sense of permanence until the age of
16 18, and God knows, it's probably going to be more
17 than two moves along the path, is a horrendous fate
18 for any child. And so this law is taking a look,
19 and it is directing us to actually use this as a
20 way to decrease the length of time to seek
21 permanence.

22 It is also intended to help us really improve
23 the matter of recruitment and retention of foster
24 parents, and certainly, to eliminate discrimination
25 on the basis of race, color and national origin of

1 the child or the prospective parents. And this
2 goes back to how decisions are made. I'd like to
3 just bring it to your attention. To be consistent
4 with constitutional strict scrutiny standards for
5 any racial or ethnic classification as well as
6 MEPA, a child's race, color and national origin
7 cannot be routinely considered as a relevant factor
8 in assessing the child's best interest. Only in
9 narrow and exceptional circumstances arising out of
10 the specific needs of an individual child could
11 these factors lawfully be taken into account. And
12 this is the law that we must apply because it is
13 the law.

14 MEPA, OCR and ACF have roles, which is why I
15 was grateful Fred could be down here with me today.
16 ACF administers the Title 4 Foster Care and
17 Adoption Assistance Program, and that is about \$4.8
18 billion a year in our states, and it represents
19 about 48 percent of all federal funding for child
20 welfare.

21 The Delay and Deny Prohibitions are titled for
22 E plan requirements. OCR has the authority, both
23 under Title 6, and under MEPA, to pursue
24 violations under MEPA and Section 1808.

25 Basically, how it works, OCR does predict

1 potential violations of the law upon referral from
2 us, and we will refer, or from other sources.
3 Based on their investigation, ACF determines
4 whether a violation under MEPA under Section 1808
5 has occurred. If it is, ACF assesses penalties
6 against the state or requires the state to enter
7 into a corrective action plan to change the illegal
8 practice, or both, as we are required under
9 regulation of law.

10 In closing, the best things that I think we
11 started talking about today was perhaps the CFSR,
12 the Children of Family Service Review. I have to
13 say that you can't look at a piece of this system
14 and try to fix only a part of it because the other
15 part goes nuts. You know, you have to deal with
16 this whole thing.

17 The CFSR, in my years of being with the federal
18 and the state government, this is the first time
19 I've felt fortunate enough to be part of something
20 where I think we will have some change. This is a
21 very powerful and intensive review, and we're real
22 lucky I have with me a member of my staff, Roslyn
23 Wilson, who is a member of the National Review Team
24 that goes across the country reviewing states.

25 We've seen the beginning of change, kicking and

1 screaming, and sometimes very eagerly among our
2 states, in response to this review. States have to
3 give us a report. If they fail to meet their
4 improvement goals, there's a penalty. We will go
5 in after the two years, and you know, really
6 re-check and monitor what's going on.

7 I would say to you, and we are now, also, we're
8 also the ones that set these standards we were
9 talking about a little bit earlier. There's not a
10 state in that country that has passed the CFSR. My
11 boss, Wade Horn has said that we're not after C+
12 systems, we're after A systems. And I think maybe
13 this is a place where the Commission could be a
14 part of the action to help us try to think through
15 these issues.

16 Anyway, all of our states have been reviewed,
17 we reviewed all of the state in the country and we
18 reviewed all the territories. We would be happy to
19 share information on this and anything else that
20 would help you.

21 Pat and Fred know a lot of more of the
22 day-to-day adventures, so they may be the ones who
23 will be responding to a lot of your questions.
24 Thanks a lot, and we're open for anything you want
25 to ask us.

1 DR. MITCHELL: Open for questions.

2 MS. ROBINSON: I have a question related
3 to probably Fred's jurisdiction.

4 Fred, what is the nature and extent of Title 6
5 complaints filed in regard to foster care issues?

6 MR. LANG: Okay. By foster care, you're
7 talking about the whole gamut, the removal of
8 children from their parents, or are you just
9 talking about --

10 MS. ROBINSON: Just foster care.

11 MR. LANG: Just foster care, period.

12 We have not had -- once MEPA, the Multi-Ethnic
13 Placement Act of 1994 went into affect, we did not
14 receive any complaints until this past year. Prior
15 to that time we received all kinds of foster care
16 and adoption complaints, but once the law was, you
17 know, passed, we quit receiving them. Now --

18 MS. ROBINSON: What is that due to?

19 MR. LANG: A lot of it is due to
20 outreach, a lot of it was related to the
21 frustration at the time. But prior to MEPA, of
22 course, race was a predominant consideration, and
23 we received a lot of complaints on that basis, but
24 at that time it was okay and the complainants did
25 not much appreciate that.

1 DR. MITCHELL: Yes.

2 MS. PERRY: How did Kansas come out on
3 the review, and how did the State of Missouri come
4 out on the review?

5 THE COURT REPORTER: And what's your
6 name?

7 MS. BROWN: My name's Pat Brown with the
8 Administration of Children and Family. Actually,
9 what Linda said, no state in the country passed
10 their review. Kansas fared as well as the rest of
11 the states in the nation, and better than the other
12 states in our region. They met, I think, at least
13 two of the national outcomes.

14 Of course, there was concerns about having a
15 pool of diverse foster parents to meet the needs of
16 kids, searching for relatives early on to make sure
17 we're making appropriate placements up front.
18 Looking for fathers, absent fathers, not custodial
19 fathers so that we can determine if those fathers
20 could be potential placement for children. Those
21 were some of the concerns that I remember as a part
22 of the review. I was on the team in Wyandotte
23 County, and those are the ones that stick out in my
24 mind. Roslyn, probably, knows some other big
25 issues.

1 I think they're making great progress in their
2 program improvement plan, as Roberta said, they're
3 working on family centered issues. We were
4 concerned about the lack of parents' involvement in
5 their own case planning, you know, a worker
6 bringing a plan to the parent and saying sign it,
7 and the parent not being involved in determining
8 what should be in that plan or the children being
9 involved.

10 I can say that we interviewed -- when we do
11 these reviews, we actually interview everybody
12 that's involved in the case. So in Wyandotte
13 County we had 20 cases. We interviewed the foster
14 parents, the parents, the children, the school
15 system, the counselors, everyone that was involved
16 in the life of that child so we could determine any
17 problems that were there and any kind of issues
18 that we needed to deal with from the Federal
19 Government.

20 MS. PERRY: What about Missouri?

21 MS. BROWN: Missouri, we just completed.
22 Missouri, I don't think, had any of the national
23 outcomes that I'm aware of. We're in the process
24 of working with them on development of a program
25 improvement plan, so I can't talk more about it

1 because we've not even seen their -- I think we
2 just got the draft of their plan in.

3 DR. MITCHELL: Mr. Plummer.

4 MR. PLUMMER: Yes. Al Plummer, Missouri.

5 Ms. Lewis said, and you also said that no state
6 has passed the outcomes. What's the general reason
7 for that? And what can be done to get that turned
8 around?

9 MS. BROWN: The standards are really
10 strict, and they're strict because the state serves
11 at a parent for the children, and we want the
12 states to do a better job. I think a big problem
13 in a lot of the states is they don't have enough
14 workers, they don't have enough money, they don't
15 have services, the right services for the parents
16 to access so that the children can come home. But
17 I don't think it's something we can let them off
18 the hook on. It's something that's required to be
19 able to move children for permanency and to ensure
20 that they can become self sufficient adults.

21 MR. PLUMMER: Does the Department of
22 Health and Human Services and/or the Federal
23 Government provide any type of funding to help
24 states rise to the level to meet these initiatives?

25 MS. BROWN: Well, we have quite a bit of

1 money going into the state. We have, first, the
2 Title 4 refunds, and those funds can't be used for
3 services, but they're the funds that are used to
4 reimburse foster parents maintenance costs and
5 incidental costs for children in care, so it's the
6 room and board payments for children in care.

7 In addition, states get 4-B dollars from the
8 Federal Government, and these 4-B dollars can be
9 used for any type of services they deem appropriate
10 in their child welfare system. They also receive
11 adoption -- we call them Family Preservation Funds
12 to work with parents, to keep parents, to keep
13 families intact. They get child abuse treatment
14 dollars to help with child abuse and neglect
15 investigations and training of staff. So there is
16 many, many funding streams of dollars that go into
17 the state. Not as many dollars for treatment as
18 there are for maintenance of children in the
19 system.

20 MR. PLUMMER: One more question.

21 DR. MITCHELL: Yes.

22 MR. PLUMMER: Where I'm going with this
23 is, and maybe my question should have been more
24 specific. Since these outcome initiatives have
25 been implemented, has the Federal Government added

1 additional money to help with the implementation at
2 the state and local level? And my rationale goes,
3 oh, for the last 20 some odd years now, the Federal
4 Government has been telling us about how well
5 they're doing in cutting the federal budget,
6 passing the responsibility down to state and local
7 government and not providing any funds for those
8 responsibilities.

9 MS. LEWIS: Let me help you out on this
10 one. I understand where you're going. First, they
11 have to understand, the open-ended fund. It is
12 about the last remaining open-ended fund, and we
13 certainly hope it remains that take way. That
14 means that we will match, on a certain percent
15 basis, whatever a state is spending. So that's not
16 affected by any budgetary decisions, and that's
17 really rather critical.

18 That money also pays for training. And it also
19 pays for a lot of the work of case workers,
20 although not service, actual therapeutic types of
21 services. It's a really key thing, so that's a
22 really important piece of funding. And all of the
23 child welfare stuff is federal, state, you know, to
24 the degree to which states put up money, except for
25 Title 4, to the degree to which states put up

1 money, we will match their money. We do not see
2 the need to add additional money, per se, to say
3 this is money to fix what's wrong. We have money
4 there that needs to be invested. There's a lot --
5 like I said, there's \$4.8 billion, nationally, on
6 foster care.

7 I pointed to the PEW Commission report because
8 one of the things that I think would help on money
9 is a different way of using Title 4-E. The money
10 right now is at the back end of the system. If I
11 were to say what's important is you have to create
12 more money at the front end. You know, you got to
13 do things so parents don't go to jail. You got to
14 do things so that kids can stay home. You
15 certainly got to do things so kids got families to
16 go home to, if at all possible. The best thing for
17 any kid is to be with their own family, that's
18 where we have to start. We have to guard that with
19 all our might. That's the part of this that's
20 really very important.

21 The administration had a proposal in congress,
22 it's still floating around there, to create a type
23 of thing like this. However, it would close the
24 end of Title 4-E, make it a closed-ended fund, and
25 so therefore that's very contentious.

1 The PEW Commission is proposing that we as
2 states do better. We take the differences between
3 what they used to spend on foster care and what
4 they're currently spending and let them use that
5 money for the prevention type of services. That's
6 a thing we did in the 80s. I was familiar with it
7 and I worked under that particular paradigm and it
8 worked quite well.

9 But to talk to funding, that's really where we
10 have to go, I think. We have to have a stable, not
11 just a quick fix kind of thing, we have to have a
12 stable way of really meeting the needs of families.
13 And families have a tough time out there, you know.

14 If you're a single mom, your chances of making
15 it through in today's world, it's only through
16 God's good grace that things work out as well as
17 they do, and there's work that we have to do to
18 really help families stay families. And after
19 30 years I've got to tell you, fix broken things,
20 you're not always going to succeed real well. Your
21 best chance is, don't let it get broke, and that's
22 what I want to turn to.

23 DR. MITCHELL: What is the penalty for
24 non-compliance?

25 MS. BROWN: Right now there are seven

1 outcomes and seven systemic factors. And for each
2 outcome that they're out of compliance is 1 percent
3 of their 4-E dollars and 4-B dollars. And so
4 there's seven -- so they can be out of compliance,
5 if they're out of compliance with everything it
6 would be 14 percent of their money.

7 DR. THOMPSON: Mr. Chairman.

8 DR. MITCHELL: Yes.

9 DR. THOMPSON: I have a question about --
10 this is the third time in about 10 years that the
11 area where I'm a provider has gone through a rash
12 of closing African-American foster homes. And I
13 was wondering, do you have anything in the federal
14 system that triggers that, okay, Missouri is
15 closing, and there are so many foster homes, and
16 these are African-American homes, what's going on
17 here.

18 Do you have anything that triggers that kind of
19 statistic, because once the Social Services decides
20 to act out against a foster home or any other kind
21 of provider, there seems to be like there is no
22 recourse. And so I was wondering if anything on
23 the federal level allows some oversight for that.

24 MS. BROWN: No, we don't get any
25 statistics. The only thing we do have on the

1 federal level is the adoption and foster care
2 reporting system, and that mainly tracks all kids
3 that come into the system and the movement of those
4 children and their case plans and --

5 DR. THOMPSON: Just the children?

6 MS. NEVILS: I have a question.

7 MR. LANG: Well that is one thing that we
8 would be interested in. That's discrimination. I
9 mean, if they're just doing it to the families of
10 color and not to the majority families, then, yeah,
11 that's something we would be most interested in.

12 I hate to say this, and people hate me for
13 saying it, but we don't care how bad the treatment
14 is or the service is, what we want to say is that
15 there is equal treatment in it. So if you're going
16 to start cutting black families, then there better
17 be majority families being cut out, too.

18 MS. NEVILS: I have a question. Nicketa
19 Nevils from Wichita, Kansas.

20 You know, with the Brown versus the Board of
21 Education, it was a great change for children, and
22 Kansas was in the forefront. I'm only saying, with
23 the system, that Kansas appears to be a
24 child-friendly state. Let's keep it like that, you
25 know, instead of having all these things that are

1 happening that should not happen. But, I also want
2 to ask the question.

3 I understand that the president signed into
4 existence a bill about adoption, that he's doing
5 some new things in adoption, some new incentives.
6 Are you aware of what they are yet, in adoption.

7 MR. LANG: I bet they are. I'm not. Let
8 me back up.

9 MS. BROWN: Luckily, we are on the same
10 floor so we can talk to each other.

11 MR. LANG: Yes.

12 MS. BROWN: Yes, for some time we've had
13 an adoption incentive. Actually, it was five years
14 ago, and gave the states incentives for adopting
15 children with special needs and children who were
16 4-E eligible. And with the current bill, it also
17 now provides incentives to the states for adopting
18 older children. So a state can get up to, probably
19 about \$6000, based on, you know, if that's a
20 special needs child or an older child, per child.

21 MS. NEVILS: Where can you get that
22 information from?

23 MS. BROWN: You can request it. We can
24 send it to you.

25 MS. NEVILS: I would really like that. I

1 just think there are answers to the questions that
2 are happening right now in the system. It can be
3 fixed, everybody wants it to be fixed, but the way
4 it's going right now, it's really hard on
5 African-Americans to really get a fair -- I mean,
6 to get a fair shot. I mean, with the parents, the
7 foster parents, the system's broke.

8 DR. MITCHELL: That's a good ending
9 statement. I think we need to go to lunch. Thank
10 you very much.

11

12

(Lunch Recess)

13

14 DR. MITCHELL: Call the session to order.
15 Session 3. To commemorate the 1954 Brown versus
16 Board of Education, we'll have a discussion on the
17 decision and it's influence/impact on public
18 education today. It is one of the major concerns
19 of most of us, is that after 50 years, we still ask
20 questions.

21 So the first person this afternoon is Doctor
22 Normal Yetman, Chancellors Club Teaching Professor
23 of American Studies and Sociology, University of
24 Kansas, Lawrence, Kansas. Doctor Yetman.

25 DR. YETMAN: Thank you. It's a pleasure

1 and honor for me to be here. This is my first time
2 before the Civil Rights Commission. I have
3 attended a number of meetings of the National Civil
4 Rights Commission in Washington, so it's a real
5 honor for me to participate. I'm also honored to
6 be able to at least be paired with Charles Scott,
7 who I knew 40 years ago. Well, 30, 35 years ago.

8 DR. MITCHELL: He must have been just a
9 pup.

10 DR. YETMAN: 35 years ago when he was a
11 student at K.U. and we were involved together in
12 trying to pressure the administration to create a
13 black studies department, which today is the
14 Department of African American studies. And I also
15 want to acknowledge Charles. I know he can speak
16 on his own, but I would acknowledge the legacy that
17 he bears with that name, the importance of the
18 struggle for equality in the 20th Century that
19 ultimately lead to Brown.

20 I've asked myself, what can I add that hasn't
21 been said, especially with the kind of celebrations
22 been going on all over the country, and in
23 particular, I've seen several things on C-Span, we
24 had a national conference at Lawrence on the
25 subject, we had the commemoration at Monroe School

1 in Topeka last week, so what could I add to all
2 this? And I'm still not sure. So my comments -- I
3 notice that you wanted to keep the comments to
4 10 minutes, I had prepared a 40-minute
5 presentation, so I'll try to reduce it to
6 10 minutes today, but I want to make a few
7 comments. Maybe I can take it really out of -- put
8 it in the context of the course that I taught this
9 semester.

10 A couple years ago when I recognized that this
11 was going to mark the 50th anniversary of the Brown
12 decision, I decided, as I do in most of my courses,
13 to try to take materials that are in the news every
14 day. And so I thought, during this semester, this
15 last spring semester, the nature of Brown is going
16 to be in the news all the time, so why not
17 capitalize on that and offer a course simply on
18 Brown versus Board of Education. And so that's
19 what I spent this semester doing.

20 And I want to acknowledge here, I have one of
21 the young men who worked with me on this course,
22 Cornelious Minor (phonetic), who was -- we had
23 about 300 students in this class. I had discussion
24 sessions with the upper-division students and he
25 was one of the graduate teaching assistantship

1 assistants who had discussions with undergraduates,
2 and we worked very closely on the course throughout
3 the semester.

4 The course is organized, basically -- and it's
5 not simply a course but I think that it will raise
6 some questions about what the real meaning and
7 implications of Brown are. I organized the course,
8 really, kind of as Ted Shaw, the head of the NAACP
9 Liberal Defense fund put it, I raised questions
10 about organizing it BC and AD, before Brown and
11 after Brown.

12 So the before Brown treatment of the historical
13 social cultural and legal background of the case
14 and the case itself was the first half of the
15 semester. Then we had the national conference in
16 March, and then the second half dealt with the
17 subsequent 50 years in trying to assess what the
18 legacy and impact of that was.

19 Now the experience of teaching this class of
20 over 300 overwhelmingly white students, and one of
21 the things that we've talked about is why the
22 number of white students, and students of color, in
23 general, in African-American studies, in
24 particular, was as low as it is. And I have been
25 teaching it as African-American Relations at KU for

1 now 38 years, so I do have some experience and have
2 had some contacts, and we were curious as to why
3 there weren't more. But at any rate, there were
4 over 300 overwhelmingly white students in this
5 class. Or I should say there were a class of 300
6 students that was overwhelming white.

7 Most of the students, I'm sure, came into the
8 class with some notion of Jim Crow, of slavery and
9 Jim Crow. And as a matter of fact, many of those
10 had exaggerated notions of what was involved. But
11 they were aware that it was the immorality, the
12 tragedy, the moral depravity of slavery, and Jim
13 Crow, and the political disenfranchisement of the
14 humiliation and violence that undergirded the
15 system.

16 And I think that they were able to comprehend
17 that relatively easily, although I think our
18 discussion of it elaborated their understanding of
19 it, because I always put it in the context of
20 trying to see the people in the 19th Century who
21 were slave owners, let's say, and ask the question,
22 how could moral people accept that form of
23 inequality? Was it because they were more amoral
24 than we are? Or is there parallels to our moral
25 sense in the 20th century? In other words, how can

1 we accept the social inequalities that exist in
2 American society today? What enables us to do this
3 without them violating our sense of conscious?

4 The fact that the system of Jim Crow was so
5 unequivocally wrong, unambiguously wrong, I think
6 was relatively easy for them to comprehend. Or it
7 was difficult for them to comprehend the morality
8 of such a system. And therefore, most were
9 prepared, I believe, to fully embrace what can only
10 be called, what I think can be called, the
11 triumphalist narrative of Brown. Not simply a
12 simplistic solution that Oliver Brown was angered
13 that his young daughter couldn't attend a school
14 right next door, and so he went out and
15 single-handedly began the campaign that ultimately
16 led to Brown, which incidentally is not a
17 distorted -- which is a distorted notion, but is
18 not a notion that is not widely held.

19 I saw a program here in Kansas City on one of
20 the local stations that was a feature on Brown
21 about two weeks before the commemoration on
22 May 17th, and that is exactly what they did. They
23 focused all of their time on Oliver Brown and his
24 family. Not even Cheryl Brown Henderson, his
25 daughter, today, would argue that. As a matter of

1 fact, she argues precisely the opposite. And that
2 is, what is significant about the Brown case in
3 terms of African-American participation was the
4 fact that it was a collective enterprise, it was a
5 collective phenomenon. It had involved nearly 200
6 plaintiffs. It had involved -- responses of
7 violence and terrorism. It was not simply one man
8 who went out and tried to change the world on
9 behalf of his daughter.

10 They were able to see the complexity, I think,
11 of that. But it seems to me that one of the things
12 that's wrong with the way in which we see this
13 case, in many respects, is that it becomes a heroic
14 story of incremental and inexorable progress,
15 almost a steady trajectory, as though things are
16 always getting better, and there is a notion that
17 we're going to project that trajectory into the
18 future. And in many respects, it reinforces for
19 students who came in my class this, I think,
20 sometimes unconscious and unquestioned faith in
21 American values and in the American democratic
22 system, the American democratic process, and
23 especially in the American judicial process, and
24 the belief that at sometime down the road, in some
25 indefinite future, the dream of a racially

1 egalitarian society is going to be realized.

2 It also enables them to think, to have a sense
3 of their own -- and I should say our own, my own --
4 essential goodness, and a recognition where they
5 can recognize the contradictions between their
6 professions of equality, brotherhood and commitment
7 to social justice that lead them to embrace it,
8 ultimately.

9 Unfortunately, it seems to me that this
10 triumphalist narrative conveys this impression of a
11 steady, if at times, hesitant movement, but ignores
12 many of the realities that have occurred both
13 during that process leading up to Brown, but also
14 in the subsequent years, but it also contributes, I
15 think, very importantly, to the notion that many of
16 them embraced, coming into the class, and we had
17 some feedback from them, this is one of the beliefs
18 that they had, was that when Brown was handed down,
19 suddenly and miraculously and almost overnight, the
20 racial landscape of American society changed, and
21 that discrimination and segregation were no longer
22 realities in American society.

23 It contributes, therefore, this kind of
24 celebratory narrative, contributes to the notion
25 that because the courts had outlawed the most

1 egregious, horrific forms of de jure segregation,
2 blacks had equal opportunities made available to
3 them, and therefore -- and this becomes important,
4 I want to talk about it in a few moments --
5 therefore, any gaps that remain, any inequalities
6 that remain between black and white or other
7 minority groups and the mainstream white
8 population, quote, unquote, mainstream white
9 population, are attributable primarily to the
10 failures of the minority rule. And this is an
11 issue that I wanted to try to engage with them
12 throughout the semester.

13 Now, real quickly, and the issue that I
14 discussed with Farella when she finally twisted my
15 arm to talk was, when we were creating the
16 conference that we had at K.U. on Brown, talking
17 about its planning, in the course of the
18 conversation someone said, "Well we have to focus
19 on education," and someone else responded to that
20 by saying, "No, the Brown case wasn't about
21 education, per se, it was about race." And I'm
22 going to take that a little bit further, to
23 certainly acknowledge, in fact, that it really was
24 about race, about the enduring and continuing
25 significance of race in American Life.

1 But for most -- and here again, I was able to
2 preach to that 294 student population in my class
3 who were white, for most white Americans, race
4 means other folks. It means black folks, in
5 particular, but other folk. It doesn't mean us.
6 And for at least those who aren't white for most of
7 American history, race problems, quote, unquote, as
8 in the subtitle Gunnar Myrdal's classic, American
9 Dilemma, was the Negro problem. You can go on and
10 on and on, and I have a number of examples that I
11 can cite of people who are talking about, quote,
12 unquote, looking at the racial minority as being
13 the problem when what I would try to argue with
14 them is that it is really a white problem.

15 Derick Bell, the Harvard, now, I think, NYU or
16 Columbia law professor, in response to the
17 commission that Bill Clinton appointed to try to
18 begin an engagement, and you're probably all
19 familiar with that engagement attempt, that Bill
20 Clinton had to have an engagement on the issues of
21 race. When he created that commission, Derick Bell
22 said, the really critical question that the
23 commission, and by application, all Americans
24 should address is, "What does it mean to be white?"
25 Not as a matter of pride and cultural heritage but

1 as economic and social facts of life.

2 So this is the thrust of what I attempted to
3 do, is to turn this around. Not certainly look
4 essentially about the way in which
5 African-Americans, in particular, played this
6 absolutely critical role, almost uniquely critical
7 role in the development of the Brown decision, and
8 the declaration that segregated facilities are
9 inherently unequal, but I also wanted to look about
10 the ways in which the role that whites had played
11 in resisting that notion and have resisted since

12 that time, the ways in which whites had created the
13 majority, I'm really talking about, and my book is
14 entitled Majority and Minority, which I really look
15 at majority groups as being the source of the
16 problem in this society, not the minority groups.

17 A lot of examples of that, and I won't belabor
18 them, you go all through American history, but one
19 of the ones I think that we could look at was the
20 way in which the notion of how "the people" are
21 pictured.

22 Time and time and time again, the resistance in
23 the post-Brown era, the resistance to Brown was,
24 the assertion was made that, well, the people won't
25 accept it. It seems to me that that notion of the

1 people never, prior to that time, prior to
2 recently, has involved non-white people. And what
3 is significant about Brown is that it forced us to
4 recognize that phenomenon.

5 Now even Brown itself, however, it seems to me,
6 acquiesce to the definition of whites, or deferred
7 to Whites, particularly in Brown 2. And that is in
8 the 1955, with all deliberate speed, assertion. In
9 other words, they were advocating to the perceived
10 response that whites would have rather than going
11 ahead and saying, if there is a wrong here, it must
12 be righted.

13 I think there's a legal principal, at least
14 there should be, that if there's no right, if there
15 is no remedy, there is no right. And yet, when in
16 Brown 2, what the court in deferring to white
17 southerners refused to implement their decision on
18 segregated facilities were inherently unequal and
19 did it with all deliberate slowness, it seems to
20 me, they, therefore, denied an entire generation of
21 students, of black students of their legal rights,
22 and that the enduring effects of this are persist.
23 Now that's one of the main things I talk about.

24 The second half of the course was designed to
25 do, first, two things. First of all, to challenge

1 white student normalizing of their own experiences,
2 what could be called their unconscious assumption
3 of their whiteness. In other words, most students
4 are -- most white students are totally aware of the
5 fact that they are the ones who are part of the
6 definition of the standards in society. They see
7 themselves -- they see people other than themselves
8 as different and not conforming to the norm.

9 I also wanted them to look about their
10 assumptions of social inequalities that continue
11 today. And to trace the changes in American Life
12 in the post Brown era and to assess the extent to
13 which the promise of Brown had been realized.

14 Critical to both of these objectives was to get
15 them to confront the significance of the Brown
16 issue and for raising the idea of equality to
17 preeminence of American Life. One of the things I
18 think Brown did, critical thing, and it almost
19 seems self evident, but Brown was not simply about
20 education or even about race, it was about the
21 meaning of equality, the meaning of equality that
22 was found in the declaration of independence, in --
23 certainly in Lincoln's Gettysburg address, it's
24 bringing that notion to the fore and serving as a
25 dominant principle.

1 Brown was a historic decision, it seems to me,
2 not only for blacks but the notion after equality
3 and the idea of equality under the law, and
4 therefore raise the question of how we're going to
5 continue to implement

6 Now, in his talk at K.U., Ted Shaw also talked
7 about, when he was asked to assess the present, he
8 used the quote -- I love this and I couldn't
9 improve upon it so I've appropriated it, as I do
10 with many things. He appropriated from Charles
11 Dickens the beginning of a Tale of Two Cities. "It
12 was the best of times, it was the worst of times."

13 There have been, and I don't think there's any
14 doubt there have been dramatic changes in American
15 life. And most apologists would point to these.
16 But, it seems to me, Brown did not eliminate the
17 dramatic inequalities that exist between racial
18 categories in American Life. Instead, the notion
19 of de jure segregation, and we all know this, and
20 discrimination has been replaced by de facto
21 segregation and discrimination.

22 Issues have become much more complex, more
23 ambiguous, more subtle. And the explanations for,
24 the persistence of what Jonathan Kozol in his
25 powerful book, *Savage Inequalities*, have become

1 framed in some of the most cherished of American
2 ideals, such as the equality of opportunity,
3 freedom, autonomy and democracy.

4 In many respects, given the kind of savage
5 inequality that continues to exist in American Life
6 today, 50 years after Brown, we're not simply back
7 to pleasant, and separate but equal. At least at
8 that time one could look and see that there --
9 there was an explanation for the savage
10 inequalities, dramatic differences between the
11 conditions of income, education, wealth among black
12 and white in American society.

13 Today, it seems to me, we live in a situation
14 that's more damning and more devastating, in many
15 ways, because the reality today is separate and
16 unequal, continues to be separate and unequal, only
17 we now live with a fiction of equality. In other
18 words, the fiction of equality -- I shouldn't say
19 the fiction, the ideal of equality that was
20 pronounced in Brown is now accepted, I believe, by
21 the vast majority of the American people.

22 So separate and unequal today are more
23 devastating precisely because the causes of de
24 facto segregation and discrimination aren't so
25 apparent. They're hidden, they're not

1 acknowledged. And the inequalities that exist
2 don't elicit the same sense of moral outrage and
3 compassion that was directed by critics at the Jim
4 Crow system if at the time, and certainly in
5 retrospect. My students become morally outraged by
6 the Jim Crow system, and yet they cannot see the
7 realities of discrimination in American society
8 today. How do Americans come to accepted these
9 dramatic social inequalities?

10 I want to just introduce very quickly, then
11 I'll quit, and we'll talk about your assignment for
12 today. These are questions I put on my final exam.
13 I think they'll be useful as a way of getting at
14 some of these issues.

15 One of the things that I tried to argue was
16 that all systems of social inequality require an
17 etiology, a set of ideas, a system of ideas to
18 explain or justify, to legitimate these
19 inequalities.

20 Slavery, for instance, was justified both
21 biblically and by science, a way of saying, this is
22 the way God intended it or this is just
23 scientifically the way it should be, or the way it
24 is.

25 Today, how do we explain the continuation of

1 these inequalities? We can't attribute them to the
2 law, quote, unquote. The de jure segregation is no
3 longer constitutional, they must, therefore,
4 according to this logic, be the responsibility or
5 the result of individual responsibility, or the
6 individuals or the groups that are, themselves, the
7 minorities.

8 This notion is known as a meritocratic
9 etiology. And a meritocratic etiology invokes
10 notions of equality to explain inequality. It
11 asserts that a society or a social system
12 characterized by equality of opportunity exists.
13 So it takes the whole notion of equality and says
14 that we live in a society of equality of
15 opportunity and, therefore, the folks who haven't
16 made it have the same opportunities as everybody
17 else but they just ain't trying out there. It's
18 their fault, in other words. So translated to an
19 explanation for racial inequality, this
20 meritocratic etiology includes several assumptions.

21 First of all, that discrimination no longer
22 exists. And secondly, that minorities are
23 responsible for their own disadvantage. And
24 thirdly, that any kind of special programs, such as
25 I was discussing with one of my colleagues here

1 today, any kind of special programs, such as hiring
2 your son to succeed you as the head coach of the
3 Oklahoma state basketball team --

4 DR. MITCHELL: Stop there.

5 DR. THOMPSON: Or the president of the
6 United States.

7 DR. YETMAN: -- is no longer necessary.

8 At any rate, this meritocratic etiology is
9 widespread in American society, particularly among
10 the white students that I have in my classes. And
11 what I try to do in my class, therefore, is to
12 directly address the realities of those
13 assumptions.

14 It's interesting going. For a number of
15 students it has been extraordinarily rewarding,
16 because you suddenly see that light go off over
17 their head. And I've seen, in one particular
18 student, Corni and I had one particular student who
19 came in to the right of a Till of the Hun, and she,
20 she was adamant about the fact that her dad had
21 made it on his own, and by dam, even though he
22 had -- he worked his way up, you know, from
23 nothing, pulled himself by his own book straps, he
24 was, therefore, able to send her to that private
25 school so she didn't have to go to Wichita --

1 North, is it? I don't know. East or north. And
2 therefore, by dam, she deserved it. That notion is
3 widespread in American society.

4 It seems to me it's one of the issues that we
5 have to address. But we have to address it, it
6 seems to me, in what I'm arguing, we have to
7 address it genuinely in multi-racial kinds of
8 settings. Not situations of which black folk are
9 there -- minority people are there to tell whites,
10 to educate whites. But rather, to have us whites
11 be in a position of trying to educate other whites.
12 And that's why I think human relations commissions
13 should have special sessions that they devote
14 specifically to educating the community to the
15 realities of these kinds of things in America.

16 I'll quit now, because I've gone on longer than
17 I had anticipated, but I hope that -- well we can
18 talk about your exam, okay? Thank you very, very
19 much.

20 DR. THOMPSON: Mr. Chairman.

21 DR. MITCHELL: Yes.

22 DR. THOMPSON: Mr. Chairman, I'm Doctor
23 Cora Thompson from Missouri.

24 DR. YETMAN: Hi.

25 DR. THOMPSON: And I was listening to the

1 discoveries that you made among your students, and
2 I have two question. The first is, did you find
3 that the arrogance and assumptions of white
4 supremacy combined with calling America as a
5 reference to the United States, as if it were the
6 whole deposit of America?

7 DR. YETMAN: I think that that's part of
8 the -- I think that's part of the whole notion of
9 what I'm talking about, is that notion that when we
10 define ourselves -- when we define America, we're
11 defining white Americans as representing it.

12 DR. THOMPSON: But you're talking about
13 it as -- it seems to me you're really talking about
14 the United States rather than America, and --

15 DR. YETMAN: Yeah, I'm talking about --

16 DR. THOMPSON: -- I would challenge that
17 the rest of the countries in America would have
18 these same notions.

19 DR. YETMAN: No, I'm talking about the
20 United States. No, I'm talking about the United
21 States.

22 DR. THOMPSON: And my other question is,
23 are you aware of or do you have knowledge of the
24 retention rates for African-American students at
25 K.U. and the graduation rates as opposed to the

1 admission rates?

2 DR. YETMAN: I know that the -- the only
3 thing I know, and I don't have the most recent
4 data, I know that this has been an issue that has
5 been of great concern at K.U., as in many other
6 universities throughout the country.

7 The latest report that I saw and, again, it's
8 not very clear in my own mind, was that the
9 administration, and this is the administration's
10 line, that they were crowing about the fact that
11 they had improved their potential rates rather
12 dramatically.

13 DR. THOMPSON: Is that no?

14 DR. YETMAN: I don't know. No, it's
15 either yes nor no. All I'm saying is I don't know
16 the specific data. I do know that it's not an
17 insignificant problem, put it that way.

18 DR. THOMPSON: And what about your own
19 department, the Chancellors Club, Professor of
20 American Studies and Sociology --

21 DR. YETMAN: Correct.

22 DR. THOMPSON: -- are there
23 African-American teachers who are members of this
24 club?

25 DR. YETMAN: No. And you point,

1 specifically, to an area that we have been very
2 concerned about that we have sought to address. We
3 have -- in our department we have a native American
4 and we have, next year we will have an Asian
5 American.

6 DR. MITCHELL: Other questions?

7 MR. PLUMMER: Al Plummer, Missouri.

8 Doctor Yetman, now that we've had some 50 odd
9 years or so to play Monday morning quarterback on
10 Brown, if you were to go back and implement the
11 changes that came out of the decision, what would
12 you do differently?

13 DR. YETMAN: I should have written a book
14 called "What Brown Should Have Said." Implicit in
15 one of the comments that I made was, that I think
16 that the Brown 2 decision should have been
17 immediate; that it should not have called for all
18 deliberate speed. Because, although it would have
19 raised the fire storm, it still created a fire
20 storm. It simply enabled many school districts to
21 put off desegregation for 15 years, if not till
22 1969, that many of the school districts were fully
23 desegregated. That would be one thing. I think
24 that would be the major thing that I would do.

25 DR. MITCHELL: Yes.

1 MR. PARKER: George Parker, Columbia,
2 Missouri.

3 Have you seen that movie, Separate But Equal?

4 DR. YETMAN: Don't know if I have.

5 MR. PARKER: I just happened to
6 accidentally tune in on it. It was the story of
7 the Supreme Court making the decision on Brown, and
8 I thought it was so good. I couldn't remember
9 where I saw it 20 years ago or what, it's an old
10 movie, but it was such a good story I wanted all my
11 grandkids to see what happened there. It was
12 telling how the old southern judge said that if he
13 voted for it that it would cause a revolution, and
14 they held out until they got a unanimous vote, and
15 so on. But it's a tremendous story, I thought, and
16 I wanted to get a copy so my grandkids could all
17 see it.

18 DR. YETMAN: Well I recommended the book
19 by Richard Kluger that we used in my course this
20 semester that talks about the way in which Earl
21 Warren, who did not have a particularly stellar
22 record civil liberties when he assumed that the
23 chief justiceship. It talked about the way in
24 which he used his own personal power. He wasn't a
25 great lawyer, he wasn't a great intellect or a

1 great thinker, but he used his own personal charm,
2 political persuasion, to get a unanimous court,
3 which was not easy because four of the justices
4 were southerners.

5 MR. PARKER: I wonder if anybody in the
6 room had seen that movie?

7 DR. YETMAN: Well there have been a
8 number of those like that. Let me just say that I
9 gave out that exam to you, these are questions I
10 had on my final exam, simply because I'd be
11 interested in your responses to it. And I might
12 say that one of my colleges who's extremely
13 knowledgeable in black history didn't get any of
14 them. This is simply because I think that the
15 issues that are addressed there are continuing
16 ones.

17 The first question: "Such an opportunity,
18 where the state has undertaken to provide it, is a
19 right which must be made available to all on an
20 equal basis." This could well have been, it is not
21 but it could well have been taken from Terry
22 Bullock's decision in Kansas within the last month,
23 which he handed down a decision saying that the
24 manner -- the distribution of funds -- and this
25 gets to the wonderful comments that were made this

1 morning by the two superintendents of schools, I
2 thought that they were outstanding, and I said to
3 some friends, I feel intimidated because of the
4 quality of their presentation, because they
5 addressed precisely the kinds of issues that come
6 out of Brown. Those are issues that are emanating
7 from Brown. But the issue is that the way in which
8 funds are distributed at the state level, which is
9 the primary place in which education in our society
10 -- public education, K through 12 is undertaken, is
11 at the state level, that's where the responsibility
12 lies.

13 Primary mechanism for the inequalities that
14 emerge is the system of the distribution of funds,
15 which is based upon local property taxes. And to
16 the extent to which the state -- and I praise,
17 what's her name -- Ms. Davison-Cohen, she did
18 say -- well the one thing, couple things she said.
19 She said, well, districts are providing the best
20 education that that district could provide. And my
21 argument is, that education is not simply a
22 district responsibility, it's a state
23 responsibility. And I did praise her when she
24 said, and I wrote this down, state governments have
25 responsibilities.

1 And in the state of Kansas right now, my state,
2 the state legislature has been ignoring, just
3 ignoring completely that responsibility. And so
4 then it falls by default, in the same way it did
5 with the Brown case, if the legislature and the
6 executive had come along and done their job, there
7 would have been no need for Brown. And the same
8 way now that judiciary in Kansas is attempting to
9 write the inequities that characterize the
10 differences between Wyandotte County, Kansas City
11 schools, and Blue Valley North, or Blue Valley and
12 Shawnee Mission Districts.

13 So those words were not taken from Terry
14 Bullock, those words were taken from Brown versus
15 Board of Education. And I think it's critical,
16 this is the law of the land, according to the 54
17 case, where the state has taken to provide the
18 opportunity for education, it is a right which must
19 be made available to all on an equal basis, and
20 that gets to my notions of equality.

21 DR. THOMPSON: Mr. Chairman.

22 DR. MITCHELL: Yes. Question, yes,
23 please.

24 DR. THOMPSON: I have one more question.
25 You mentioned in your text of your presentation

1 that it was incumbant, using my own words, not
2 trying to quote you, it was incumbant upon good
3 white folk to teach and train other white folks so
4 that they would have some kind of conscious raising
5 and change of attitude. How do you propose that
6 happen?

7 DR. YETMAN: I think -- it was
8 interesting at the Brown conference, at the Brown
9 commemoration, I sat way in the back, I wasn't one
10 of those VIP's that got their tickets through the
11 two senators and congressmen and that kind of
12 thing, but anyway, I sat, and I tried to ask people
13 why they were there, to find out what their
14 motivation was for coming. A lot of people came to
15 that because the president of the United States was
16 there, and they had their "Four More Years" buttons
17 on.

18 One of the couples I talked to were both
19 educators, and they were both educators in
20 secondary schools. And without any prompting, they
21 talked about the ways in which the kind of
22 materials that they were using in their schools to
23 try to address this. I think it's got to be
24 something that begins in nursery school, and not
25 just as I'm doing, and I've been trying to do for

1 the last 38 years at the university level. I think
2 it's got to be something that is done as an
3 integral part of the curriculum, that it's a
4 required part of the curriculum, to try to address
5 these issues in the most sophisticated and pathetic
6 way as possible, and that's a very general kind of
7 response. I don't know if I could be any more
8 specific than that. But I know that there are
9 programs at the Southern Poverty Law Center where
10 the publication that they have called Teaching
11 Tolerance is one of the sources of materials that I
12 think is excellent for that kind of thing.

13 DR. MITCHELL: Okay, well thank you very
14 much.

15 UNIDENTIFIED PERSON: Could we get an
16 answer to the other two question?

17 DR. YETMAN: You bet. The second one was
18 part of the Brown case from Clarendon County, South
19 Carolina, but I think it could be equally
20 applicable to any of those school districts you
21 talk about.

22 And the final one was the dissent in the Plessy
23 versus Ferguson decision.

24 DR. MITCHELL: Mr. Charles Scott.

25 MS. SCOTT: Okay, thank you.

1 I wish to give thanks to the Commission for
2 inviting me to this event, and I'm truly honored
3 and pleased to be here. Quite frankly, I'm here
4 because Charles Scott, Senior could not be here.
5 And that's the only reason that I am here. In
6 fact, I would prefer, for a personal reason, I wish
7 he was here to speak to you directly.

8 So in any event, when I speak about Brown, I
9 have to speak about Brown from the historical
10 prospective from both Charles Scott, Senior, my
11 father and my grandfather, Elija Scott. I'm here
12 to give you some legal, historical prospective and
13 what I would contend Brown portends for the future.

14 I can stand before you, unequivocally, and
15 state that, had it not been for the life and career
16 of Elija Scott, Senior and Charles Scott, Senior,
17 that the case we know of Brown v. Board of
18 Education simply would not have occurred. I mean,
19 there would not have been a Brown v. Board of
20 Education decision. Because the Brown decision was
21 the natural and inevitable progression of the
22 career of Elija Scott and Charles Scott, Senior.

23 Elija Scott began his legal career in 1916,
24 when he graduated from law school. And at that
25 time he dedicated his entire career, life, if you

1 will, to combatting segregation and discrimination
2 and securing justice and equality not only for
3 African-Americans, but all historically
4 disenfranchised people in Kansas and throughout the
5 country.

6 He took on cases that constituted personal
7 danger to himself, quite frankly, no other attorney
8 would take, white or black. And many of those
9 cases were in the deepest part of the south, South
10 Carolina, Texas, deepist part of Texas.

11 I say that because Brown case, the decision
12 that -- I'm talking about the case that was filed
13 in Topeka, was built upon the legacy and the cases
14 that he had litigated decades before Brown, the
15 Brown decision. I want to say a lot about Brown
16 because there's been a lot of misinformation, quite
17 frankly, which Doctor Yetman touched on a few.

18 But in any event, one of the early cases that
19 was the precursor or laid the foundation for the
20 Brown, or at least had laid the momentum, not
21 necessarily the legal precedent, but laid the
22 momentum for the Brown case that was filed in
23 Topeka, that was the case of Webb V School District
24 of Merriam, Kansas, which is just a few miles to
25 the west of here. And that was a case where Elija

1 Scott and my father, Charles Scott, had brought
2 against the School District of Merriam, Kansas to
3 gain access for the black children to the South
4 Park Elementary School.

5 In 1948, the School District of Merriam had
6 constructed a state-of-the-art brand new school
7 district, grade one through eight, with a
8 gymnasium, music room, even a science room, a
9 teacher for each class, and whereas the 50-some
10 black students in the school district were required
11 to attend, literally, a one-room shack with outdoor
12 bathroom and had two teachers teaching eight
13 grades, and they were not college educated. In
14 fact, one of the teachers didn't even have a high
15 school education.

16 Well when a lady named Ester Brown and the
17 citizens approached Elija Scott and my father,
18 their initial request was to bring some type of
19 legal action just to propel the school district to
20 repair the school that was provided for black
21 children to attend.

22 Well, Elija Scott and Charles Scott made the
23 decision to challenge the legality of segregating
24 the students by race in the school district itself.
25 So they brought an action in 1948 which found that

1 the Merriam School District had unlawfully,
2 contrary to Kansas law at that time, segregated the
3 students by race, and the following year the
4 Supreme Court of Kansas ordered the admission of
5 the black students to that school.

6 Now, the Brown case was filed for years at
7 Topeka. When I say years, from 1948 all the way
8 until the case was filed in 1951, the local NAACP
9 had made numerous pleas with the local school
10 district of Topeka to integrate the school system.
11 There were petitions to the school board, but those
12 pleas, like Moses' plea, "Let My People Go" fell on
13 deaf ears.

14 The decision in 1951 was made to mount a legal
15 challenge to the segregation of the public schools.
16 The matter was referred over to the Scott Law Firm
17 of Elija Scott, my father, Charles Scott, his Uncle
18 John Scott, and attorney named Charles Bledso.

19 There were three theories that were initially
20 put forth in the Brown case that was filed in
21 Topeka. One was that black children were denied an
22 equal education under the doctrine of separate but
23 equal enunciated under the Plessy. And as all of
24 you know is that, in Plessy, the Supreme Court in
25 1896 declared that a state can provide separate

1 facilities on the basis of race so long as those
2 facilities are, quote, comparably equal.

3 Well that argument was actually made in the
4 Brown case in Topeka. And the inequality of
5 education on that basis, as it was argued, was that
6 black children had to endure burdens and hardships
7 to receive an education that were not imposed upon
8 white children, because black children were
9 required to attend schools outside of their
10 neighborhood at a great distance, provide their own
11 transportation, whereas white children did not.

12 I mean, there was extensive testimony that
13 black children had to arrive to their designated
14 school two hours before school started and got home
15 two or three hours after school was out on public
16 transportation by themselves. I can't imagine that
17 any parent today would allow a 6 or 7 year old to
18 ride a bus by themselves clear across town, but
19 that's what the children had to endure at that
20 time. And there were some other discrepancies.

21 The other argument was that black children were
22 denied an equal education under the equal
23 protection clause as the court had historically
24 interpreted the equal protection clause. That is,
25 that a state cannot differentiate or classify its

1 citizens unless their classification of
2 differentiation is rationally based and serves some
3 legitimate state interest. Obviously, segregation
4 and education on the basis of race was clearly
5 irrational, and it serves no legitimate interest
6 except prejudice against the Negro children, as
7 they were described.

8 However, the argument that carried the day, and
9 that has merited much debate and discussions since
10 then, was that segregation imposed by law,
11 sanctioned by law, imposed a bad inferiority upon
12 the black child, or as they were called then, the
13 Negro child, and had feelings of inferiority with
14 psychologically detrimental or retard the learning
15 and personal development of the child. A child
16 that feels inferior is not motivated to learn,
17 thus, will not learn. That was the argument.

18 However, as you know, the Supreme Court found
19 that since the facilities were comparably equal,
20 and the school board had agreed to provide school
21 transportation for the black children to attend
22 their designated school -- oh, let me know. Of
23 course you know. If you raise your hand -- if you
24 start raising your hand, I'll think you're telling
25 me to go right on.

1 So anyway, the three-judge panel in Topeka
2 found that the facilities were comparably equal,
3 the that school district was permitted to have
4 segregated schools for black and white children.

5 I would also like to, again, address some
6 myths, misconceptions about the Brown case. The
7 case bears a name of Oliver Brown and Linda Brown.
8 And I cannot only tell you how that occurred, as
9 Charles Scott, Senior, who prepared the pleadings
10 referred, but if there's any argument about that,
11 don't argue it with me, just, unfortunately, you
12 can't argue with the person who actually prepared
13 the complaint. It was purely fortuitous, quirk of
14 fate, if you will, as was the custom then, as it is
15 the custom now, the parties are listed in
16 alphabetical order.

17 Now, one might say -- and the plaintiffs, keep
18 in mind, are the children. The plaintiffs in the
19 case are the children, and the parents are their
20 representees. Anytime you bring a legal action on
21 behalf of a child, it's Child A by his or her
22 parent and next of kin or next of friend.

23 The pleadings were listed in alphabetical
24 order, thus say Charles Scott, Senior, and the name
25 Linda Brown was first in the alphabetical order.

1 There was another child named, Sondria Dor Stella
2 (phonetic) Brown, and she was commonly -- and
3 people would refer to her or call her by Dor
4 Stella. They didn't know Sondria was her first
5 name. However, if they had used Dor Stella Brown,
6 the case could have very well been named Dor Stella
7 brown and her mother, which was Darlene Brown at
8 that time. That's what Charles Scott, Senior has
9 said, that's of record. I have a transcript where
10 he gave an interview back in 1972 at the Eisenhower
11 Museum, and that's what he stated there. So that's
12 that.

13 And secondly, I want to comment why -- but
14 anyway, the case has been portrayed this myth. And
15 this is no reflection upon the Brown family at all
16 because they're wonderful people and I have the
17 greatest admiration and respect for them. But
18 since the decision was issued in 1954, this case
19 have been packaged and portrayed as the struggles
20 of this minister, black minister and his little
21 girl to attend the school in their neighborhood.
22 And that's where it began and that's where it ends.
23 And not that it was a decision that eradicated
24 segregation, or that decision was to eradicate
25 segregation and discrimination in this country.

1 I think it's very comforting, particularly to
2 those who were responsible for segregation,
3 historically, to know that this was just a little
4 case about a little girl who wanted to go to school
5 in her neighborhood. It's more powerful. And
6 that's how it's been packaged, even right after the
7 decision was announced, Life magazine came on the
8 scene, and they didn't take a picture of anybody
9 else but this little girl, Linda Brown. She was on
10 the cover of Life magazine in 1954, and that image
11 has been burned in the memory, minds of people ever
12 since.

13 I think -- and quite frankly, it's a sacrilege,
14 really, not to the case or to the struggle and the
15 sacrifice of not only the 200 other plaintiffs
16 involved in the case nationwide, but to the
17 attorneys who put their careers on the line in
18 undertaking that case.

19 That was not a popular case at the time, not
20 even in Topeka. There was no support from either
21 the white or black community in that case. There
22 was only a handful of people in the NAACP who even
23 attended the meeting to discuss the case. So I
24 think it is -- that image has been portrayed, or
25 has been faltered just to cloud the true purpose of

1 impact of the case. And that's how it's been
2 portrayed.

3 Also, what is -- again, there are many stories
4 I'd like to talk about Brown, but I have to get to
5 this. In addition to Oliver Brown and Linda Brown,
6 there were 13 other parents and 27 other children
7 in the case. And Oliver Brown was the only man in
8 the case. And these 13 other mothers, I think it's
9 interesting that the mothers brought this case on
10 behalf of their children, because historically, and
11 even today, it's been the mothers and the women who
12 have been the most devoted to their children, and
13 particularly, their education.

14 They brought that case, these women, as they've
15 stated on numerous occasions, to provide a better
16 life for their children. A better life -- a life
17 that they knew they could not obtain in a
18 segregated -- in America where they had to sit at
19 the back of the bus, where they were excluded from
20 various institutions in America. That, in my mind,
21 is probably one of the most untold stories, and
22 there is clearly a story there about the women in
23 the Brown case, and I'm speaking in Topeka, who
24 brought that case. And many of these woman were
25 single parents back then, back in the day, and the

1 sole breadwinner for the home. And most of them
2 were domestic workers, they worked in hotels or
3 they worked with families. But these are the women
4 who laid their lives on the line, like a mother
5 does. We all have mothers, and we know. So
6 anyway, that's a story that's been untold.

7 Now I'd like to make a comment about what was
8 the significance of the Topeka case, Brown v. Board
9 of Education of Topeka. Again, as I said earlier,
10 if it had not been for a Brown v. Board of
11 Education in Topeka, the challenge to segregation
12 may have been put off for years, if not decades.
13 All of the other -- there were, as you know, and
14 most of you know, not all, but there were four
15 other cases in conjunction with Brown that the
16 Supreme Court decided that was in Delaware, South
17 Carolina, Virginia, and Washington D.C.

18 In all of those four other cases, there was a
19 gross disparity in the educational facilities. The
20 facilities in Clarendon, South Carolina at the time
21 would make a schoolhouse in Ethiopia look like a
22 palace. It was deplorable. But in any event,
23 there were gross disparities, and not only in the
24 physical facilities but also the quality of
25 instruction. And that was not really the case in

1 Topeka, quite frankly, the schoolteachers in Topeka
2 were rated first rate. I'm a product of that
3 segregated element, primary education, I went to an
4 integrated school when I attended junior high and
5 high school.

6 So, and the buildings were fairly descent,
7 there were some minor -- but in any event, the
8 bottom line is separation. What is segregation?
9 In other words, what are separation or segregation
10 in the field of public education, per se, was
11 unconstitutional, could only be challenged in
12 Topeka, in the Topeka case, because all the other
13 cases, literally, could have been started in Plessy
14 v. Ferguson and ruled by Plessy v. Ferguson. They
15 could have been -- Plessy v. Ferguson could have
16 been upheld in those other cases.

17 The Supreme Court found that the education that
18 was provided in the -- clearly was being provided
19 in all the other cases were clearly not equal to
20 that received by whites, in terms of the tangible
21 measurable factors of education.

22 However, that was not the case. As the
23 three-judge panel in the Topeka case structured the
24 case so that the Supreme Court could not avoid the
25 question of whether segregation on the basis of

1 race, notwithstanding that the tangible measures of
2 education were equal, violates the equal protection
3 clause of the 14 Amendment.

4 But in any event, the case was, as you know,
5 the case was filed, and it went to the Supreme
6 Court, and the Supreme Court declared that the
7 doctrine of separate but equal has no place in
8 public education. And separation of students on
9 the basis of race, notwithstanding equality of
10 facility, another measurable factor of education,
11 violates the equal protection of the black
12 children.

13 And as a basis and rationale for their
14 decision, they cited the specific finding of fact
15 in the Brown v. Topeka Board of Education, which
16 was that segregation sanctioned by law had a
17 psychologically detrimental impact upon the
18 educational and personal development of the Negro
19 child.

20 Well, the question, as we celebrate today,
21 Brown v. Board of Education, has the promise of
22 Brown been fulfilled? As you know, as Doctor
23 Yetman mentioned, that in 1955, the Supreme Court
24 issued an order that school districts are to
25 integrate their school systems with all deliberate

1 speed.

2 Of course, 50 years later, and after decades of
3 desegregation litigation, we're still asking the
4 question, what all deliberate speed means? And, of
5 course, my father commented at the time that all
6 deliberate speed meant forever, which is the case
7 today. And I guess, it was the goal, the hope of
8 Brown, it was the hope that the goal of Brown was
9 not only to integrate public education, or break
10 down segregation in public education, but it was to
11 integrate and desegregate America. So, for the
12 first time, African-Americans and all people who
13 have been denied their rights would have access to
14 all the opportunities and benefits of the
15 mainstream of American Life, starting with
16 education.

17 And of course, we know today that the schools,
18 you don't have to do a statistical study, you can
19 go to any school in any city, major city, and
20 realize that the schools are as segregated today as
21 they were at the time of Brown. And we get to the
22 question of, is it necessary or essential or
23 beneficial, even, for African-American children,
24 Hispanic or minority children, in order for them to
25 receive a quality education, that they attend

1 schools with white children? Well, obviously -- of
2 course one thing I would say, we don't know what
3 our educational system would be today if the
4 Supreme Court had implemented the decision
5 immediately, fort with, as all other court orders
6 are issued. I don't know why they essentially
7 allowed the school districts for the past 50 years
8 to establish new segregated school districts. They
9 gave them time, I guess, gave them time to
10 reestablish segregation, the fact of segregation.

11 But the question is, again, that segregation is
12 an evil that had to be eradicated. Thurman
13 Marshall and his argument before the Supreme Court
14 said that segregation had excluded black people or
15 Negroes at that time from the main stream of
16 American society. And Doctor Yetman quoted Gunner
17 Myrdal in his book, *The American Dilemma*, Gunner
18 Myrdal said that, segregation has made the black
19 man an alien in his own country without the means
20 or knowledge to sufficiently function in that
21 country.

22 Segregation is just another word for exclusion.
23 Fifty years ago, the court said that segregation
24 sanctioned by law imposed a badge of inferiority
25 upon black children. It sent a message to black

1 children, and by extension, all black people, that
2 you are inferior.

3 Your government, United States of America, says
4 that you are inferior and incapable of learning and
5 achieving in this society. And quite frankly, we
6 felt that way for a long time. Thus, we had to
7 have -- thus lead to black pride. Blacks once and
8 for all had to assert themselves that we are a
9 people of worth; that we are not second-class
10 citizens, even though you may regard us as such.

11 So in any event, the question is where are we
12 today, and my only comment is, like you said, the
13 schools are segregated. Now we certainly, in this
14 country, profess that we want to achieve a diverse
15 and inclusive society in all institutions of
16 America, in our political system, our economic
17 system and our educational system.

18 Certainly that has been a goal, professed goal
19 of institution of higher learning at our
20 universities and colleges, we want to foster
21 diversity and inclusion in our government, as in
22 all walks of life. And of course, the question is,
23 when do those people empower, who are in a position
24 to make those decisions, whether they are going to
25 have a diverse inclusive institution, when do those

1 people learn what that is.

2 Obviously, will they ever learn or value
3 that -- well, will they ever value or cherish that
4 value of diversity and inclusiveness if they did
5 not learn it when they were children? I agree with
6 Doctor Yetman, there has to be some form by which
7 white people, white people can learn, or at least
8 be confronted with the self worth and value of
9 people of different cultures and different races.
10 And I suggest that has to be started when they're
11 young.

12 Now whether we like it or not, and for the
13 foreseeable future, probably for my lifetime
14 anyway, the person that will be making a bank loan,
15 admissions officer at a university, or any other
16 decision-maker that will affect your life is going
17 to be a white person. Probably nine out of ten.
18 Occasionally -- fortunate, at least I have been so
19 fortunate.

20 But anyway, so what values is that person who's
21 going to make that decision be making his decision
22 on? He's going to judge you a person who is not
23 like him on values in which he was raised. And
24 that was really the goal of Brown, to integrate
25 America through the public education system where

1 children would learn to interact and function
2 appropriately if not constructively with people of
3 different races and different cultures.

4 Now 50 years later, I contend the educational
5 system has made that interest virtually impossible
6 for the foreseeable future. The courts have
7 abandoned any efforts to desegregate the schools.
8 In fact, there have been actions, legal actions
9 brought to challenge voluntary desegregation plans.
10 So I hold out little hope about whether that
11 constructive engagement between children of
12 different races and different cultures will ever
13 occur in the public education system.

14 So, I clearly do not have the answers, and I'm
15 not an educational expert, although I'm getting
16 educational questions, but that as a lawyer I feel
17 helpless to address the problem. All I can say is
18 that on this 50th year, 50th anniversary of Brown
19 v. Board of Education, I believe that we as
20 individuals and as communities and as citizens of
21 this country, need to recommit ourselves to develop
22 and create ways, or that we can develop a climate
23 by which people of different races and different
24 cultures can, particularly children, can interact
25 in a constructive and meaningful way.

1 I tell a story in many of my talks about Brown.
2 Elija Scott, my grandfather, he and his family
3 migrated from Mervinborrow (phonetic), Tennessee in
4 the late 1880s and early 1890s with a hope of
5 coming to Kansas for a better life, as was promised
6 by the governor at that time, to come to Kansas, to
7 yourself and your family a quality of life. Well,
8 of course when they got there, all was not what had
9 been promised. But in any event, when he arrived
10 in Kansas, Topeka, Kansas, he encountered a pastor
11 named -- a famous pastor named Doctor Monore
12 Sheldon, who wrote the famous book, In His Steps.
13 Doctor Sheldon had established a kindergarten for
14 the area town that Elija Scott lived in. That area
15 was called Tennessee Town. And one of those
16 students was a young lad named Elija Scott, and he
17 embraced Elija Scott and became his mentor and
18 friend for life, in fact, financed his education.
19 And my grandfather was forever indebted to him for
20 that. In fact, he named his son, my dad, Charles
21 Monroe Sheldon Scott.

22 So I say, just as one humble white pastor then
23 reached out to a young black boy named Elija Scott,
24 we have that same opportunity today, to the best of
25 our ability, to reach out to not only an

1 African-American or minority child, but any child
2 who's been excluded or disrespected with the
3 general society, and empower them to achieve their
4 God-given gifts. So, I'll conclude on that note.
5 Thank you.

6 MS. NEVILS: Mr. Chairman.

7 DR. MITCHELL: Two questions at the most.
8 Thank you.

9 MS. NEVILS: When I was going to school,
10 working on my degree in elementary ed in
11 Pittsburgh, Kansas, I happened to be the only black
12 in my class. And I'm going to tell you, of the
13 people that took that class, about 25 of us --

14 MS. SCOTT: Is this a college, Pittsburgh
15 College?

16 MS. NEVILS: Pittsburgh University,
17 Pittsburgh, Kansas.

18 MS. SCOTT: Oh, okay.

19 MS. NEVILS: -- I was treated like a
20 stepchild in that class. I did a lot of my
21 assignments by myself, and when it came to group
22 discussions, it was like I was almost a group of
23 one.

24 Now, if people that are learning to be teachers
25 would treat me like that, and they're adults, and

1 excludes me, it bothered me about what they would
2 do to my child. And there was a saying that was
3 going on for awhile, well, you can bring them into
4 our classrooms but we don't have to teach them.
5 And I'm wondering, is that some of the problems why
6 our children are not learning at a level that they
7 should? But as an adult, I mean one black in a
8 class full of whites, they treated me really bad.
9 But, you know, I didn't have a problem with it. I
10 went ahead and did what I needed to do. But I was
11 an adult. This was new teachers that were getting
12 ready to come out. And I would not want any of
13 them to teach my child, because I know how they
14 treated me.

15 MS. SCOTT: I agree. There's clearly --
16 there's segregation even within integrated school
17 systems. I think that's a lack of leadership at
18 the top from the school board on down to the
19 leadership of that particular school. And my
20 daughter attends Shawnee Mission Northwest. She's
21 a junior. But black kids are -- children are
22 segregated within that school system. There's a
23 book out, why do black children -- why do black
24 kids sit at the lunch table by themselves? But
25 that's because many of the black children feel

1 isolated even in an integrated school.

2 You had a question, Doctor Thomas.

3 DR. THOMPSON: Nice to see you,

4 Mr. Scott.

5 MS. SCOTT: Nice to see you, Doctor.

6 DR. THOMPSON: And I want to thank you
7 for coming and sharing with us your personal
8 experience from your family, and which is my
9 question. I wanted to ask two questions. First,
10 what law school did your grandfather attend?

11 MS. SCOTT: Washburn University.

12 DR. THOMPSON: Washburn.

13 MS. SCOTT: Washburn Law School. So did
14 my father.

15 DR. THOMPSON: And there was rumor around
16 Topeka that you are publishing about your
17 grandfather's journey; is this correct?

18 MS. SCOTT: Well, I've certainly talked
19 about it for years. I have not taken any formal
20 steps to see that happen. I have written some
21 newspaper articles over the years, but nothing -- I
22 certainly wish I could. That's certainly my dream
23 and goal, one of these days, hopefully before too
24 long.

25 DR. MITCHELL: Thank you very much.

1 probably could have helped.

2 So it's kind of like a matter of what you see
3 or what you don't see. And if you don't see it,
4 it's not a problem. And we were kind of just
5 joking a little bit about that. There still aren't
6 any things in there like that, so don't go in that
7 bathroom.

8 We do know that reform in our health care
9 system is desperately needed. You folks have
10 amongst you health care providers that are sitting
11 with you as colleagues that can attest to this.
12 Over 44 million people uninsured in the United
13 States. That's not a small number, by any means.

14 When you think of access problems, even for
15 people who are insured, if they have problems, if
16 people that speak English also have problems
17 accessing good health care, if people who don't
18 have disabilities, physical, cognitive, still have
19 problems accessing health care, and even, there may
20 be people who can read, and they might have trouble
21 that you might expect of someone who is illiterate.
22 And at times, even if you were to have individuals
23 like a U.S. employed white male, if an individual
24 like that could have access to health care issues,
25 how much more so for those who don't fit in those

1 categories?

2 We lump them up in the categories of being
3 disadvantaged, under-represented, disparate
4 population groups, you name it, there's all kinds.
5 Some folks that I deal with are very explicit and
6 they'll tell me, don't categorize me in that group
7 of minority or whatever, and you know, don't do
8 that, and so, therefore, you know, okay, that's
9 fine.

10 Essentially, if I were to borrow some of the
11 terminology that the two gentlemen that just
12 finished speaking before me, we know that a lot of
13 these problems that take place that we are facing
14 as a nation with health care access issues really
15 stem from the inequities that take place in society
16 all around us. They haven't gone away.

17 We've been talking about and listening to the
18 things that plagued our country back in the 30s,
19 40s, 50s. Well, guess what, it's probably like the
20 wide neckties. They kind of were in style at one
21 moment, and then they went away, well, they're
22 back. The wide lapels are back.

23 None of these things, really, have gone away.
24 And if we talk about access, or the opposite of
25 access, access denied, no access would mean

1 exclusion, to borrow one of Mr. Scott's terms
2 there. An exclusion is just something that we
3 really as a country can't tolerate. When we think
4 of these complexities related to access to health
5 care, they really are just many of the same old
6 things, the same, and maybe even new social ills
7 that are besetting us nowadays.

8 Some of the factors that I think that we all
9 know about do pertain to literacy. People who
10 can't read, whether black, white, Hispanic, Asian,
11 are going to have more difficult times taking care
12 of themselves, much less, you know, even more so,
13 even more of a problem to try to gain entry into
14 the health care system, accessing it for the right
15 things. Race, ethnicity, gender can be barriers
16 and factors. One's sexual preference, their
17 insurability, whether they have employment or not,
18 whether they have income or not, because sometimes
19 just because you're employed doesn't mean one
20 really has true significant income.

21 The education level, the color of the skin, and
22 accent to one's speech, language and cultural
23 barriers, a lack of prepared providers. And I
24 don't mean, you know, talking about incompetent
25 health care providers, I'm talking about, perhaps,

1 health care providers who are not culturally
2 competent, or who are not in tune with some of
3 these very important and germane essentials in
4 order to really take care of a population group
5 that needs that.

6 Immigrant status. A lack of basic simple
7 information. Did you know that this service was
8 available to you over here? No, I didn't. Simple
9 things like that. And then today, nowadays, we're
10 confronted with even other issues that are, you
11 know, at one time maybe were foreign to us. When
12 we think of the term terrorism, that brings along
13 with it the national security issues, the homeland
14 defense quandary, and anything that's related to
15 that that might draw in discrimination.

16 We've all heard of some of the legislative
17 proposals that were being entertained recently
18 about how health care providers, hospitals had to
19 report if something, this or that happens, or
20 someone comes in, you know, that might be
21 suspicious or whatever, and than you report them.
22 Well, you know, when you have to ask someone what
23 their nationality is or their immigration status is
24 before they can get their health care needs met,
25 you're going to have even a more complex and

1 difficult dilemma in the health care arena.
2 Because the problems are just simply going to
3 multiply and really fester and blow up and really
4 become a problem, economically and socially. Thank
5 God that some of that legislative thinking has kind
6 of gone by the wayside, at least for now. Terrible
7 to think that something like that would happen in
8 America, but, nonetheless, the realities.

9 Some of these other factors definitely pertain
10 to politics, legislation, laws, whether they exist
11 or whether they don't, because sometimes we can
12 have good laws or bad laws, but sometimes the
13 absence of something also can really create big
14 problems. And when you have laws, sometimes they
15 can even compete against each other.

16 Senator Frist, as recent as February of this
17 year came up with the proposed bill, Senate bill, I
18 think it's Number 2091, Closing the Health Care Gap
19 Act of 2004. But, as politics, you know, tends to
20 do, it's just a fact of life in the political
21 arena, there are prevailing attitudes that also get
22 in the way. Attitudes of my version of this bill
23 could be better. My way is better than your way,
24 Senator, or whatever. And than that comes into
25 that quandary of locking horns, and the

1 loggerheads, and just running into problems where
2 nothing gets done then.

3 Demographics, this is a country that's just
4 changing so rapidly at any given moment at any
5 given time. Very dynamic, very fluid, and it's
6 constantly changing. Then you have government
7 dissent or disagreements, sometimes internal,
8 within a certain agency, or amongst other agencies.
9 We saw it with the homeland defense issues that
10 prevailed between this agency under the Department
11 of Justice and then another one like that. An
12 example in health care was when we had the ARC
13 Report, the Agency for Health Care Research and
14 Quality report, December, 2003.

15 It came out, and, you know, trying to elaborate
16 on problems related to the disparities, related to
17 the health care issues that we face as a nation.
18 But then there were problems that you wouldn't
19 expect that surfaced, also, that had to deal with
20 rhetoric, of all things, our own words. There were
21 accusations of problems taking place with the
22 report where it was really doctored up and maybe
23 kind of purged of this or that, and then, really,
24 taking on the shape and the form of something else
25 other than what it originally was. And then you

1 had problems. Terms were eliminated, supposedly,
2 like the national problems. The term disparity was
3 hardly used, supposedly, or taking on a tone of
4 minimizing the significance, undermining, really,
5 what it was set out to do, which was convey a
6 strong sense of urgency about the real problems
7 that this country's facing regarding the
8 disparities in health care.

9 Then you have other things, like the overall
10 poor quality of care that really everyone faces,
11 whether we're Hispanic, black, Asian or white. And
12 that came out. Well, it's actually been out in
13 several studies and reports, but one that comes to
14 mind was the Journal of Health Affairs publication
15 made, the fourth this year. I think Doctor
16 Elizabeth A. McLinn was the one who helped author
17 that.

18 There are problems that we have to face, but
19 along with those we need to think about the
20 solutions. And just really quickly, some of the
21 solutions are found in the lists that we don't
22 have. They rest with people like you folks here,
23 like you and I. The ones that we haven't thought
24 about yet. Well, Senator Frist had come up with
25 the Closing the Health Care Gap Act. If something

1 like that were to come through, then, maybe it may
2 help somewhat.

3 It includes more substantive efforts and
4 awareness being thrown at in the area of a need for
5 data collection, improved access, being equitable
6 for everybody across the board. Professional
7 training for people. Health leadership, even
8 amongst the federal ranks. And then, also, it
9 included a component, if it were to go through, on
10 grants for community health centers. And then
11 expanding the mission, the overall mission of my
12 office, the Office of Minority Health under the
13 Secretary of Health and Human Services domain.

14 New federal dollars for work force training.
15 And by that we mean, helping to get a work force
16 that mirrors more of what our health care consumers
17 are up there. Having an opportunity to engage more
18 minority students to go to medical school, nursing
19 school and other health care disciplines, so that
20 they can also been in tune with a lot of the things
21 that they know play their particular population
22 groups, or those around them that they're
23 interested in.

24 The Health Care Equality and Accountability Act
25 was one, I think it was Senate Bill 1833, came out

1 or was proposed in November of 2003 by Senator
2 Daschle. Again, it includes something similar,
3 too, but it was something that came up just as
4 slightly a few months before Senator Frist's.

5 Again, with the intent of helping minority
6 population groups, via more of the same that we
7 just mentioned, if you don't have the data
8 collected, you don't have the numbers, then the
9 bean counters aren't going to pay attention either.
10 You need that substantive information to come up
11 with more information via evidence-based scientific
12 studies and reports that are really showing
13 something of substance and that might mean or lead
14 to better outcomes for quality care for others.

15 Non governmental solution might be for people
16 like each one of us here, whether behind that table
17 or sitting out here in the chairs. Staying
18 informed. And holding the system and the policy
19 makers and leaders all accountable. I tell that to
20 people everywhere I go. Hold me accountable.

21 Well I've only been in this position maybe four
22 and a half months right now and been desperately
23 trying to make new connections, relink up
24 communication lines that maybe were broken and
25 fragmented the last few years, and it's a tough

1 thing, to try and establish a little bit of
2 credibility again, especially when people are tired
3 of hearing the same ole, same ole all the time.

4 Education, more education, whether it's for
5 people like us, because that's what we're doing
6 here. We're trying to become a little bit more
7 acquainted with some of the issues that plague us
8 in these important areas. But education, also, to
9 help give the right tools to make for culturally
10 competent providers, health care providers,
11 whatever race or ethnic background they may be.

12 I love it when I see health care providers that
13 maybe are Anglo that are really desperately trying
14 to learn Vietnamese or Spanish. Or I have a couple
15 of colleagues that are African-American, and
16 they're fluent in Spanish. Some of them are even
17 good at Thigalas, and things like this. They have
18 taken the steps and gone into the unknown, because
19 we're all comfortable with our own ethnic central
20 type of thinking. And that's a big deal right
21 there in itself, a big barrier. If we're
22 comfortable with it, we don't want to step out and
23 go beyond to try and learn something about someone
24 else.

25 I believe in that, wholeheartedly. If we can

1 do more to find more interpretive services for
2 hospitals or clinics, anything like that,
3 exchanging relationships between governments and
4 universities. I was really pleased. Last week, I
5 was invited to the Mexican Consulate here in town,
6 and it was interesting to hear the Under Secretary
7 For Exterior Affairs' from Mexico speaking about how
8 he had tried to engage the university chancellor
9 here at the University of Missouri in Kansas City
10 about plans for seeing about exchanging students in
11 the medical school and in the nursing school, so
12 that each other would have -- each of those
13 schools, perhaps, might have an opportunity to
14 really grow and learn something new from each other
15 and then apply it here, and share it with each of
16 these faculties, respective academic settings. I
17 think that that's outstanding, and maybe we can be
18 a facilitator for something like that. Little
19 things like that.

20 In conclusion, I would say there is no
21 conclusion when it comes to health care
22 disparities. We've heard that, also, with the
23 previous speakers here. These things have lingered
24 for a long time. And I don't mean to be sounding
25 pessimistic or apathetic by no mean, because it

1 would be morally and ethically wrong for me as a
2 health care provider, or any of the others in the
3 health care disciplines to just say, well, it's
4 there, the problem is there, and, you know, such is
5 life.

6 The challenge still is there for me and those
7 out there to continue doing our best to reeducate
8 minds, slowly. But reeducate these erroneous
9 belief systems that may be out there feeding this
10 monster of the health care disparity issue, that
11 maybe, also, aren't any longer valid or appropriate
12 for today.

13 Now I'm not trying to advocate that we go out
14 and intrude on someone else's cultural
15 significance, someone else's mores that are really
16 valuable to them, but I am here to say that there's
17 nothing wrong with challenging, tactfully
18 challenging some of these things that may be a
19 little antiquated, and saying, why, why are we
20 doing it this way? Just because? The old just
21 because thing, you know, doesn't really fly
22 anymore, or at least it shouldn't with us.

23 We need to be courageous enough to ask the
24 tough questions. We need to be able to stick out
25 our professional, are very elegant professional

1 leadership nix during the moments of the -- the do
2 or die moments like, when people are trying to make
3 the important decisions about budgets, whether at a
4 local county level, whether at a municipal level,
5 whether at a state level. We need to ask the tough
6 questions. Why do we want to wait for the bandaid
7 approach? Well, we got a problem here, let's see,
8 we got these immigrants that are coming here now,
9 and they are -- yep, they're here to help our
10 community socially, economically. Nobody really
11 wants to do this work or that work in agriculture
12 or with the meat-packing plants or this or that,
13 but you know what, we really don't need to be so
14 concerned about how we're going to prepare our
15 school system for the kids that are coming along
16 the way, or how we're going to meet their health
17 care needs when these communities, these immigrant
18 communities come in.

19 Those, sometimes, unfortunately, are bandaid
20 approaches, or crises management outright, if we as
21 leaders don't take time to be pro-active and think
22 ahead. If we want folks to come and help, or if we
23 want to have this population group here or that one
24 over here to do this or that for us, then we also
25 need to be prepared, better prepared.

1 And lastly, I would say that everybody here is
2 an intelligent individual. I really don't need to
3 be up here speaking about this because all the
4 answers rest with everyone who's listening right
5 now. I really believe that. And I'm happy to say
6 that, because it makes me -- it gives me some
7 comfort in knowing that I'm not in this alone, or
8 that my fellow health care colleagues are in this
9 type of a dilemma, a quandary alone.

10 If we are not able to come together via
11 dialogue forms like this, venues of this sort here
12 in a collaborative nature, taking the time to learn
13 a little bit about the issues, even though it may
14 be something very remotely, you know, of interest
15 to us or whatever, you know, we have that
16 responsibility to do that. And I would just
17 challenge us to think seriously about these things.
18 I'm going to shut up, because it's long overdue,
19 and I'll take a couple of questions if anybody has
20 any.

21 DR. MITCHELL: Yes.

22 DR. NAVATO: Alma Navato from Missouri.

23 I know you probably don't know all the
24 statistics yet, being in the position for the last
25 four months, but as you've been here for the

1 Department of Health Services for Kansas City,
2 Missouri, how many public health clinics are
3 available just in the Kansas City area that are
4 open up to minority or under-privileged patients.

5 MR. GALAN: In the Kansas City metro
6 area, if we were to say that we had, I don't know,
7 maybe, what, 1.8 million, 1.7, depending which way
8 the statistic needs to be tilted for a little
9 higher number or less, I would say, just off the
10 top of my head, that -- and there has to be more,
11 but, at least six or seven of them come to mind
12 right now, that I know that exist out there that
13 are really doing something significant in the
14 population base of what I just mentioned right now.

15 It could be more, and I wouldn't be surprised,
16 because sometimes other little groups pop up --
17 sometimes there are sole physician practitioners
18 out there that are really doing some neat things,
19 and they're not even touting it, or people don't
20 know about it, but they're out there doing real
21 significant things without charging individuals.
22 And helping like that. But there are at least half
23 a dozen or better that I can think of in this area.

24 DR. NAVATO: Would the immigrant
25 population coming in, and I don't know what the

1 statistics are, but from some of the presenters
2 here it's a very big increase in the minorities and
3 immigrant population over the next five for ten
4 years, how are we going to be prepared to accept
5 all those and how are we going to disseminate
6 information to them that there is help needed and
7 that there is care provided for it?

8 MR. GALAN: Doctor Navato, that's an
9 excellent question, questions. There's a couple in
10 there, I think. But those are questions that I
11 never get tired of asking wherever I go, whether
12 it's discussing something with the governor. I
13 particularly deal with four of your states, Iowa
14 Kansas, Missouri, Nebraska, and if I have to deal
15 with the health department at the state level,
16 counterparts there, I don't -- I'm not shy about
17 asking things like that, because these are things
18 that need to be asked in order to be pro-active, in
19 order to have that foresite and to do the strategic
20 planning that's really required instead of just
21 some kind of a haphazard recipe that was thrown
22 together that we know as crises management, or
23 worse yet, the bandaid approach, you know, for some
24 gaping wounds that really needed more definitive
25 type of interventions.

1 We need to do more, and I'm saying that at the
2 federal level, I'm saying that at the state level,
3 I'm saying that at the county and the local
4 municipalities. I think about all the attention
5 that's being drawn now to emergency preparedness
6 and the monies that are going into those coffers
7 right now and being shared with the states and
8 county health departments and things like that.

9 But I ask them, what are you doing to include
10 some of the groups that feel invisible, like some
11 of the native American populations in these states,
12 some of the Asian populations. What about the
13 largest Sudanese population base that we have here
14 in the United States that's located in Nebraska?
15 Somebody correct me if I'm wrong. You know, we
16 need to take care of individuals that normally
17 aren't in our day-to-day thinking, agenda. We need
18 to think outside, and I hate that term, outside the
19 box, or let's color outside the lines, and all of
20 those little idioms or colloquialisms, but we do
21 need to think in a different, new and a fresh way,
22 and not be shy about it.

23 I like the fact that you asked the question
24 because, again, it's heightening the awareness, and
25 we need to do that. So I'll continue to echo that.

1 My answer to you is, I realize it's a big need on
2 the federal side. I tried to instill that in any
3 of the communities that I go to. I think about
4 Garden City. I haven't visited Garden City yet but
5 I plan to, and other communities in this region
6 that I keep finding out have extraordinary bits of
7 information there about new immigrant populations
8 or about some needy community that somebody has
9 basically just left them by the wayside, and they
10 become one of the invisibles, one of the invisible
11 groups.

12 DR. THOMPSON: Mr. Chairman.

13 DR. MITCHELL: Yes.

14 DR. THOMPSON: I'm Cora Thompson from
15 Missouri. I am concerned, and I realize you've
16 only been in this spot for four and a half
17 months --

18 MR. GALAN: But you'll put me on the spot
19 anyway. That's okay.

20 DR. THOMPSON: Well, not necessarily.

21 MR. GALAN: I appreciate that.

22 DR. THOMPSON: But is it possible that we
23 could ask you to prioritize the health care for
24 native Americans in your regional responsibility
25 and give us some information? Why is it that the

1 Department of Health in Kansas City, Missouri tells
2 native Americans that, number one, that they're not
3 responsible for their health care? That's from the
4 Bureau of Indian Affairs. And Number 2, that their
5 numbers aren't significant enough to be concerned
6 about their health care. I mean, those are things
7 that are happening today. And if you could kind of
8 put that on your list of 100 things to do.

9 MR. GALAN: I appreciate that, Doctor
10 Thompson. I have heard comments like that before,
11 and, specifically, about -- I don't think Missouri
12 has any federally recognized tribes; correct? And
13 therefore, does that mean that they -- if they're
14 not recognized that they don't exist, or that they
15 just aren't there?

16 Again, are they one of the invisible population
17 groups that we're talking about? Well, guaranteed
18 a thousand percent, these folks probably feel that
19 way, and rightly so, you know, when I look at some
20 of the reports. I know that Ms. Perry came to our
21 office a while back with one of her colleagues, and
22 she was pointing out some things. And you know,
23 honestly, sometimes we in the professional or
24 scientific community, we shoot ourselves in the
25 foot or feet, or in the mouth sometimes because of

1 the way that we portray information.

2 I remember her showing us some of the reports
3 that she had, and it said that there was like a
4 little asterisk by some figure or something like
5 that, and it would say, of no statistical
6 significance or something like that.

7 Well, in the scientific communities, you know,
8 when you talk about something that doesn't have any
9 statistical significance, it doesn't mean that,
10 literally, that the native American community is
11 not significant or any like that. I think it was a
12 poor choice of words, but nonetheless, it was just
13 nomenclature, that's standard, okay, to try and
14 explain that it didn't have a real bearing of any
15 magnitude that would impact something one way or
16 another.

17 And it did come out, though, to give the
18 impression that, wow, your numbers are really, you
19 know, nothing, of no consequence, so therefore,
20 kind of like brushing the native American community
21 aside here. Well, we tried to explain that a
22 little bit, and, you know, clarify that, although
23 I'm not speaking for those folks who did come up
24 with those, generated those reports and authored
25 those studies.

1 Things like that are on our list. They are on
2 our radar screen. I've been trying desperately to
3 make good connections with the native American
4 communities, the tribal elders, the chairmen of the
5 different tribes, and made some good in-roads.
6 Things like that don't come overnight by any means,
7 but I really am pleased to say that I feel as
8 though we've got a communication link established,
9 and that awareness that we, you know, mutually
10 exist is there. And so we're going to try and
11 continue to foster a good relationship and help
12 out. I've been trying to send information to
13 everybody.

14 DR. MITCHELL: Ms. Perry. Ms. Perry has
15 a question.

16 MS. PERRY: I just have one question.

17 DR. MITCHELL: State your name first.

18 MS. PERRY: Mona Perry. I'm worried
19 about the data part. Who does the data? It's
20 different. Like the state and mental health system
21 do not, they do not count native Americans, we're
22 under "Other." And some of the health department
23 here, we're under "Other." And so I think that
24 data needs to be looked at.

25 MR. GALAN: Definitely. I know that I

1 have, and some of my superiors have also been
2 taunting and pushing for this, advocating for more
3 data, not just, you know, specifics, but it's
4 really hard, you'd be surprised that there's data
5 that you think would be out there, but it isn't.
6 It just isn't being collected. And then we don't
7 want to just encourage because, because it's
8 costly, right, a data collection for the sake of a
9 data collection. What are we going to do with it?
10 How is it going to be analyzed and utilized
11 effectively for real solutions? We can get all
12 kinds of information from that, but we're trying to
13 take the baby steps with the folks that need that,
14 that type of approach, and for others we're being a
15 little bit more aggressive. Some folks, you know
16 very commendably are just, you know, really out
17 ahead by leaps and bounds in data collection, but
18 we need to do more. We do. And we'll keep
19 pressing on with that message.

20 MS. NEVILS: Mr. Chairman.

21 DR. MITCHELL: Yes.

22 MS. NEVILS: May I ask one short
23 question? Nicketa Nevils, Wichita, Kansas. I
24 would like to know what contingency plan do you
25 have with the thought that there are more people

1 that are unemployed, so there goes their insurance,
2 and since their -- and these are some of the same
3 people that would help donate and give monies to
4 the food banks. So here we have food -- and how
5 are these people going to get it, because the food
6 banks are not getting as many donations, you have
7 people that have been working, and now they're laid
8 off, and they do not have insurance, and we know
9 that at the bottom of the list will be the
10 minorities, because they're the first ones that are
11 let go on a job, unless they're really high up in
12 management. The Hispanic, the Asians,
13 African-Americans, native Americans, what are these
14 people going to do? What contingency plan do you
15 all have in place to service the needs of the
16 people?

17 MR. GALAN: Well, I think that your
18 question and the issues that you raise are really
19 important and valid.

20 Number one, part of the way that I like to
21 address that issue, because economics, obviously,
22 plays into this, also. I mean, we talked about
23 politics and the social issues behind it, but
24 economics, also, is a big factor that we can't
25 ignore.

1 One of the things that I love to try and do is
2 to raise some conscious awareness with the business
3 community, also. I don't know of any employer or
4 any businessman or woman anywhere in this country
5 or in the world that, you know, that does not want
6 to have a more productive and able-bodied work
7 force and to really be able to produce and generate
8 and everything. Well, in order to have that,
9 sometimes it requires them, as big business leaders
10 or even small business leader, to be able to invest
11 a little bit in the health care of their people.

12 Now, mind you, I'm not saying invest in their
13 insurance or something like that. I'm not even
14 going that far, although that's the ultimate goal,
15 obviously. But I believe in simple things, like
16 educating their supervisors on how to treat people
17 so that you don't impose so much stress on people
18 that are there so that maybe you have less
19 accidents so that you have people that are cheerful
20 about coming to work.

21 It's already kind of a drudgery, anyway, for
22 most of us, you know, who have to go to work. I
23 love work, though, actually. My wife hates that.
24 But I enjoy it. I enjoy going to work. And I
25 think that if I can raise an awareness like that in

1 the business community, that's important.

2 Is it important, or the solution and the answer
3 to your questions one that could be found at the
4 federal level? I don't think so. Is the answer
5 something that can be found in a collective way,
6 the feds with the states with the counties with the
7 business community, with everybody included to come
8 together and dialogue on how to do it? Yeah.

9 I went to a meeting recently, here, that was
10 sponsored by one of the health care networks in
11 town on cover the uninsured week. Well it was
12 gratifying to see how this money-making, although
13 they're not for profit entity, hospital corporation
14 took the time to do this, to convene people
15 together from different community-based
16 organizations, from different state and local
17 entities, that got together to brainstorm how to
18 promote and heighten an awareness about this
19 dilemma and issue, and how, maybe, to come up with
20 some solutions.

21 Did they come up with a solution for giving,
22 you know, insurance to 44 million Americans, or
23 let's say 44,000 here in Kansas City, even? No.
24 But they came up with some other ideas that
25 stimulated more dialogue and more thought into the

1 process. And that's what I mean by baby steps. I
2 don't know. The short answer to that is, I don't
3 know that such a strategic plans exists for
4 something that complex.

5 MS. NEVILS: Well I think it should. In
6 Wichita we have the Boeing, we have the Leer Jet, a
7 lot of those jobs are going overseas. And when
8 these people are laid off, and they've given good
9 years, even Coleman, I think, some part of it has
10 been cut back, it's a very real situation to us in
11 Wichita.

12 MR. GALAN: Sedgwick County, pardon me
13 for -- not to cut you off, I have been to Sedgwick
14 County, and I took the time to visit about eight or
15 nine clinics over there that were community-based,
16 taking care, addressing the needs for the uninsured
17 and indigent or anyone who just needed help like
18 that. It was fabulous, some of the clinics really
19 doing a whole lot more than others because they
20 had, maybe, a little bit more money. But I was so
21 impressed.

22 What would I concede for something like that,
23 you know, because it's hard to take care of the
24 whole world, folks, but if you take a group like
25 the Sedgwick County area, I was trying to envision

1 bringing people together like them to tell the
2 business community, the Boeings and the McDonnell
3 Douglasses of your area there, and other leaders,
4 look, this is what we're doing.

5 They don't have a clue what those clinics are
6 doing. Honestly, they don't. And people need to
7 know, and they need to be touted, their horns need
8 to be tooted a little bit more so that they can
9 come together. That's what I mean by these
10 collaborative type of relationships. I guaranty
11 you that if any of those corporate executives were
12 to know and see for themselves what some of those
13 magnificent places -- and I'm not talking about
14 illustrious buildings or anything, mind you, I'm
15 talking about really run-down physical structures,
16 but they're doing such magnificent things. It's
17 inspiring. Those people would also be inspired and
18 be willing, then, to give to that community,
19 because it's going to help their community. It
20 will. Instead of being a cycle of the vicious or
21 self-perpetuation of the problem, and maybe even
22 eroding and ulcerating even further into a real
23 festering issue, it would maybe do something better
24 to try and help itself, you know, and I believe in
25 that..

1 I don't think that there are easy answers, and
2 I'm not here to say that -- or to paint the picture
3 all rosy and all of that. I can't do that in all
4 honesty and then look at myself in the morning when
5 I wake up. I can't. It's bleak. But at the same
6 time, the moral and ethically correct thing for any
7 health care provider, any leader that's in here
8 today, is to continue seeking out answers
9 solutions, dialoguing, and trying to work together
10 where we can, as much as possible.

11 DR. MITCHELL: Thank you very much.

12 MR. PLUMMER: Al Plummer, Missouri.

13 What are you seeing, or what kind of
14 information are you getting, if any, on disparity
15 quality of health care, and if so, where do you see
16 those major problems, and are there any initiatives
17 or anything being done to try to overcome those
18 issues?

19 MR. GALAN: Good question. I think that
20 for a number of years, maybe the last, I'd say,
21 five to ten years, significant reports and studies
22 have come forward highlighting and underscoring the
23 very same things that you just talked about, but,
24 sadly to say, showing us a lot of the things we
25 already knew. That there are disparate ways of

1 treating our health care consumers. It all
2 depends. I can tell you examples, vivid examples
3 of people, and I cover the four state area, I won't
4 tell you where, but one major teaching hospital,
5 somebody gets ordered, physician orders -- let's
6 say Doctor Navato orders a couple of tests and you
7 need to get this MRI. The person, Maria Gomez,
8 will present herself there to the hospital, and the
9 receptionist, right from the beginning, will take
10 the stereotypical approach in thinking, well, now,
11 you know, and take it upon herself or himself to be
12 a policeman or policewoman and say, you don't
13 deserve this, mentally, and not verbally like that,
14 but you don't really deserve to have health care
15 benefits here in my country or whatever. And
16 basically, steering them in the wrong direction so
17 that that test that Doctor Navato ordered would not
18 get done. That's happened, I know it has. Then,
19 you get someone else walking in there, right
20 immediately after Maria Gomez, Mondalia Acabar,
21 from Sudan, but black, and walking in and
22 confronting the same receptionist, and again, the
23 same thing. Well, it turned out that the
24 receptionist involved in that particular incident
25 was African-American, but taking it upon herself to

1 say, in her own philosophy, her own way of
2 thinking, you folks don't deserve -- by you folks
3 being here, you're taking away health care dollars
4 that belong to my aunt or to my uncle or to me or,
5 you know, you know what I mean? And we take on the
6 responsibility that we really shouldn't be doing.

7 Well, the disparities are there, inequities are
8 there. We know that African-American patients,
9 Hispanic patients are not getting the same types of
10 tests offered to them, like if you have chest pain,
11 some type of a diagnostic procedure --

12 DR. MITCHELL: We've got to move on.

13 MR. GALAN: -- or something like that,
14 and we know that. We know that's happening. We're
15 heightening that awareness.

16 DR. MITCHELL: Thank you.

17 MS. ROBINSON: Thank you very much.

18 DR. MITCHELL: We need to move a little
19 faster because we're way behind schedule, but I
20 want you to know that former Congressmen Wendall
21 Bailey.

22 UNIDENTIFIED PERSON: Thank you,
23 Mr. Chairman. I'd like to leave business cards
24 with you for your members of your commission. I
25 work for the small business administration, and I'd

1 like to give you one quick fact. Our loans to
2 minorities are up 35 percent this year due to the
3 leadership of Hector Beretto (phonetic) from Kansas
4 City who's done a magnificent job with Outreach.
5 And thank you very much for the recognition,
6 Mr. Chairman.

7 DR. MITCHELL: The next phase is Natasha
8 Watson, Civil Rights Analyst. I ask you to really
9 be as brief as you can with your questions.

10 MS. WATSON: Good afternoon. Thank you
11 for allowing me to make my presentation. I'm going
12 to as brief as possible. In fact, I brought some
13 handout materials that would expedite my
14 presentation, to take with you.

15 My name is Natasha Watson. I'm a civil right
16 investigator or an analysts, depending on who's in
17 the office at that time, they make those decisions.
18 I work with the Office of Fair Housing and Equal
19 Opportunity for the state in Kansas City, Kansas.

20 Lately, we have been embarking on some
21 complaints of investigation that are fairly new, and
22 those complaints are predatory lending complaints.
23 Everybody wants to be a homeowner. It's important
24 to be a homeowner. They tell you that there is
25 self worth in homeownership. But a lot of times

1 people trying to achieve that American dream, it
2 often becomes a nightmare. And when it becomes a
3 nightmare it ends up in our office.

4 Predatory lending, as I said, is fairly new to
5 our office. We've been doing it for about five
6 years. It's been around for hundreds of years, I'm
7 assuming, as long as people could buy homes they've
8 been taken advantage of. But we have just got into
9 it in the last five years. Where there is not a
10 definition for predatory loans, predatory lending,
11 it's an unfair credit practice that supports a
12 credit system that promotes inequality in poverty.

13 Generally, what it is is abusive, it's
14 manipulative, it's fraudulent, it's cohesive, and
15 it takes advantage. A lot of times takes advantage
16 of minorities. And that's when we get involved.

17 When we're investigating complaints, we have to
18 investigate complaints based on the protected
19 classes. Predatory loans, predatory lending falls
20 under the Fair Housing Act when it becomes
21 discriminatory. It becomes discriminatory when it
22 targets African-Americans and other minorities,
23 when it treats them differently than it does
24 non-minorities. When they have policies and
25 practices that are unfair, when they treat people

1 differently based on credit history, based on
2 credit reports, it becomes a predatory loan, that's
3 when we can investigate it.

4 Unfortunately, it's very hard. A lot of times
5 people do not realize their loans are predatory for
6 five and six years down the line. Our time frame
7 for investigating complaints of discrimination is
8 one year.

9 Every other weekend, as my bio states, I talk
10 to a group of potential homeowners. Out of those
11 homeowners, one or two people have had loans for
12 five, six, sometimes ten years, and after my
13 presentation they realize that their loans are
14 predatory. They realize that they've been taken
15 advantage of. They realize that their fees are
16 high, that they were charged fees at the beginning
17 of the loan, that they were told, no down payment,
18 you don't need a down payment, but the down
19 payment's been built inside of the loan and they're
20 paying on a down payment for 30, sometimes 40, I've
21 seen 50 year loans.

22 So a lot of times, it's really -- the education
23 part is important, and it's really hard for a lot
24 of folks to realize that their loans are predatory
25 until they -- you know, at the beginning, they just

1 want to get into that home, they just want to get
2 there.

3 To identify a predatory loan, I'm just going to
4 kind of go through some of the red flags. One of
5 the red flags, you have prepayment penalties. Lot
6 of times they're up to 5 percent of the loan.
7 Sometimes you have balloon payments. Now I know a
8 lot of times they will tell you that, well, you go
9 ahead and come on in and we'll get you into this
10 loan, and about five years, you know, if you keep
11 your credit, if you keep your payments on time, you
12 can come back in and get it refinanced, and then in
13 five years, you'll have a balloon payment of 15,
14 20, \$30,000, but don't worry about that, because
15 you can come in and get that loan refinanced.

16 Well a lot of times in five years, if you can't
17 make that loan at the very beginning, in five years
18 you're not going to be able to go out and get it
19 refinanced. A lot of people fall into that hole,
20 that deep hole and say, I'm okay, I can go out and
21 get it refinanced in five or six years, but they
22 can't, because at the very beginning of the loan
23 they end up with a 40 or \$50,000 loan with a
24 \$20,000 balloon payment, and in five years,
25 nothing's changed. Sometimes they fall behind on

1 their mortgage. The interest rate is always sky
2 high. They can't get that loan refinanced. And
3 then they come to a balloon payment in five years,
4 what are they going to do? They get in trouble,
5 and it leads to foreclosure.

6 The next one is loan flitting. That's when
7 they keep refinancing over and over and over and
8 over and over again. I know of a case where a loan
9 was refinanced 20 times in 10 years, just over and
10 over and over and over. And each time they
11 refinanced their loan, they packed those fees, they
12 keep packing those fees.

13 Another red flag is steering. And this is
14 going on right now as I speak. Well, I can't help
15 you, but I know somebody that can. And they will
16 ride you right on into that B market, into that C
17 market. And a lot of times the person can qualify
18 for a loan, but they ride them into a B or C loan.
19 And sometimes they can be misconstrued as steering.

20 Another term is packing. That's what I said
21 earlier, they pack those fees. They keep packing
22 and packing and packing.

23 Another is a mandatory arbitration clause.
24 They tell you that you don't -- they make you think
25 that you don't have a right to file suit. A lot of

1 times, if you're sitting in that loan office, and
2 you are 35 years old and you have four kids and
3 you're becoming a homeowner, or you're single and
4 you're becoming a homeowner for the first time, you
5 really don't care what you sign, you just want to
6 sign. They say sign here and sign here and sign
7 here. And you start initialing, initialing,
8 initialing, and you're just happy. They say
9 congratulations and they go on. Then you go home
10 and you realize you've given up your right to sue.
11 Your loan is all jacked up and you don't know what
12 to do. You have no rights whatsoever.

13 The effect of predatory lending is foreclosure.
14 That is the biggest effect right now. In your
15 packet there is a -- there was a study done by the
16 Legal Aid Society of Kansas City, Missouri in 2000,
17 that showed a lot of subprime lenders.

18 Now subprime lenders are good, we need them in
19 some areas, for people who are having credit issues
20 and they're trying to get up on the mark, subprimes
21 are fine, but a lot -- in this packet, there's some
22 subprime lenders in there that shows the
23 foreclosure rate -- not foreclosure rate, but how
24 many homes are foreclosed on. They've actually got
25 addresses in there. And if you know anything about

1 the Kansas City cord area, a lot of the addresses
2 are concentrated in the minority area. They give
3 out maybe 75 loans, and 15 or 20 of them are
4 foreclosed on. That's in your packet.

5 What can we do as fair housing? We are trying
6 as much as we can. Every two weeks, on Saturdays
7 I spent from 10:00 to 2:00 on talking to homeowners
8 about predatory loans.

9 Outreach, we do as much outreach at humanly
10 possible. Like I said, we're fairly new in this,
11 five years. And the banks are way ahead of us.
12 We're drowning in loan documents. All we know is
13 what's wrong is wrong. We look at these little
14 tale tell signs and we go out and we try to get
15 them to change. And that's what we're trying to
16 do.

17 But the biggest thing is education, letting
18 people know that a lot of times, you have the
19 power. Even if your credit rating is saying 620,
20 it's called subprime, anything below on the FICA
21 score is 620 is considered a subprime loan.

22 Even if your credit score is 550, you have
23 rights to negotiate. People do not realize they
24 have the right to negotiate. You don't have to
25 sign anything. And that's what I tell people.

1 Well I want this house, and they tell me if I don't
2 sign, if I don't close today then I lose it.
3 You're not going to lose it because you shouldn't
4 have had it in the first place. And a lot of
5 people don't want to admit that a lot of times
6 these loans are not for them, and they need to
7 continue looking for something better. That's
8 what we're trying to tell them. But you know what?
9 The banks are far ahead of us.

10 Our secretary is pushing, our new secretary,
11 Alfonz Jackson is pushing home ownership, and
12 that's good. But we have to keep educating people
13 and letting them know, read your documents. You
14 have the power to do anything that you want to do.
15 I tell the story that I was raised in the church,
16 and I know everything is negotiable, even death.
17 And I tell them that you can negotiate that loan.
18 You have the power to negotiate. And I don't mean
19 to go really fast, but a lot of this stuff that I'm
20 telling you, it's in your packet. It's a lot of
21 information.

22 Let me go back to my quick notes. Statistics,
23 national statistics, just go to the web site, and
24 click in predatory loan, and you will hit thousands
25 and thousands and thousands and thousands of sites.

1 The HUD data is in for 2002. You can pull up HUD
2 data and see how many foreclosure -- just assume
3 10 percent of those loans were predatory loans.
4 That's a good figure, that's what we're looking at,
5 10 to 15 percent are predatory loans.

6 In our office, we took the forefront in
7 investigating complaints of discrimination with
8 predatory loans. In the last year alone, in our
9 office, we have had 107 complaints of predatory
10 lending in the Kansas City area. Kansas City,
11 Kansas, Kansas City, Missouri area. Of those 107
12 complaints, 45 were settled.

13 Now bank loans are the hardest loans to
14 investigate because here I am, coming into your
15 institution, asking to see your records, and you're
16 not going to let me see them. So I have to go get
17 a subpoena, and then your office is in some place
18 in Las Vegas, Nevada, so then I have to wait. And
19 a lot of times they just make a lot of paperwork
20 for us. But a lot of times they settle.

21 So we have 45 settlements out of 107 loans that
22 total \$561,000 loan amounts being forgiven. That's
23 over a half million in loans in the Kansas City
24 area alone that were forgiven because of predatory
25 lenders. Now they're not going to admit that

1 they're predatory loans, but they forgave those
2 loans.

3 One other thing that I tell my people, and I
4 say to my people, everyone who's been taken
5 advantage of is my people, I tell them, when you
6 are getting ready to sign those documents, when you
7 are ready to look for a home, when you are even
8 thinking about looking for a home, know what your
9 rights are. Know what you can and cannot do. Know
10 what the -- find out what that lending institution
11 is saying. Get knowledge. Knowledge is power. If
12 you have that knowledge you have the power to do
13 whatever you want to do.

14 I have a case in question, I was working on a
15 case last year with one of our lenders in the area.
16 And it was a lady, they live on 26th and Benton. I
17 don't know if a lot of you are familiar with that
18 area. Well her house was sold to her for \$114,000,
19 and her house was over 45 years old. It was a
20 three-story home on 26th and Benton. If any of you
21 all just drive down, there's not too many homes
22 worth \$114,000 on 26th and Benton, but it was
23 financed. She had a interest rate at that time of
24 7 percent. Someone came -- a lender came back with
25 her high loan, her interest rate, and somehow she

1 got flipped so many times, she was flipped into
2 11 percent interest rate. She was flipped and
3 flipped and flipped. She had no idea what they
4 were doing. They was just -- you should be happy
5 you got a loan. And she just signed that document.
6 She just kept signing and kept signing. She had a
7 mortgage payment of \$1400, and she was trying,
8 struggling, she and her husband were trying to make
9 that payment. She came to our office, she didn't
10 know who we were, she didn't know we existed, she
11 just happened to come to a session, gave me her
12 loan documents, we looked over them. I contacted
13 the bank, I began to talk to them about what I was
14 going to do and what we can do. Now we don't have
15 a lot of people, we talk a good game. We talk a
16 good game. So I began to talk to them. When they
17 got through with her they came back with a
18 settlement. Her loan payments are now, on a
19 \$114,000 loan, they wrote off about \$40,000 worth.
20 Her payments are \$500. Her interest rate is .04
21 percent.

22 Now you tell me, if that wasn't a predatory
23 loan in the beginning, why in the world are you
24 reducing this woman's interest rates that much?
25 And they just, we just want to work with her, we

1 just want to work with her.

2 So that's kind of an overview of what we do.
3 We do have other investigations that we do, but
4 predatory lending complaints have just kind of
5 taken over our office, and we've been real
6 aggressive how what we do and how we do it.

7 We did have -- we were instrumental in that
8 task force in 2000 that was the Kansas City,
9 Missouri, the mayor enforced that task force. So
10 that's in your package. We were instrumental in
11 getting that started. That's when we really kind
12 of got involved.

13 A lot of you all read the Pitch Weekly back in
14 2000. There was a builder that we went after, and
15 because of that builder, that's kind of what
16 initiated that. That was our initiation, initiated
17 by fire. And that's how we got involved in this.

18 So if you have any questions, you know, you can
19 ask them. Like I said, there's a lot of
20 information in that packet. I hope I didn't take
21 you too fast, I just kind of wanted to give you a
22 summary.

23 DR. MITCHELL: Thank you very, very much.
24 You have given us, really, a lot of information in
25 a short time, and I wish you would have been first.

1 Questions? Yes.

2 MR. PLUMMER: Al Plummer, Missouri.

3 Natasha.

4 MS. WATSON: Yes.

5 MR. PLUMMER: Can HUD or has HUD
6 attempted to get any help on these issues from
7 FDIC, Fanny Mae, some of these folks that, as well
8 as some of the other programs within HUD itself,
9 seem would be able to yield some leverage? Is that
10 going on?

11 MS. WATSON: Yes. What happens, when you
12 file a complaint in our office, we not only send
13 you a letter that you have filed a complaint, but a
14 copy goes to the Federal Trade Commission and the
15 other agencies that enforce some of the
16 regulations. So, yes, we do, we do work with them.
17 In fact, they've been responding -- a lot of times
18 they'll respond back to us. We say, yes, we do
19 have problems, or, yes, we do know of this lender
20 and so forth.

21 DR. MITCHELL: Are there some groups that
22 are more involved in predatory loans than others?

23 MS. WATSON: You mean as far as mortgage
24 companies?

25 DR. MITCHELL: Yeah, right.

1 MS. WATSON: Yes, it's in your packet.

2 DR. MITCHELL: The reason why I asked
3 that question, is there a possibility for a class
4 action suit?

5 MS. WATSON: Actually, a lot of the non
6 profits -- in fact, one in Wichita, I was just down
7 there last week, Sunflower Act Organizations are
8 non profit, and they just negotiated a large
9 settlement with the Fairbanks Capital Mortgage
10 Company. So a lot of the non profits are doing
11 that.

12 There was another non profit that negotiated a
13 settlement with Citicorp. So they are -- the non
14 profits are getting involved and they are doing
15 things.

16 What we've found out is a lot of the prime
17 lenders own the subprime lenders. So, for
18 instance, I think Bank of America owns a lot of
19 subprime lenders. So, even though they're
20 negotiating with the subprime lenders, we have to
21 start negotiating with the prime lenders, too. So
22 that's what's going on now.

23 DR. NAVATO: I have a question. Alma
24 Navato, Missouri.

25 Of these predatory lending institutions that

1 have been found, do unfair practices and that have
2 settled in favor of the client, has any of these
3 institutions been penalized for their practice of
4 predatory lending, even if they did not agree or
5 acknowledge that they did do the deed?

6 MS. WATSON: Unfortunately, no. The only
7 thing -- the only document that we have to monitor
8 is that agreement that we have between a lender and
9 the complainant that we represent. There is no
10 legislation to do anything with predatory loans.
11 Government doesn't -- the banking institution is so
12 mighty and so strong, they just brush it under the
13 carpet and they go on. Okay, we got caught.

14 We're not strong enough, and that's our
15 problem, we're not strong enough to go after them
16 and make them change. That's why it's important
17 for us to come out and talk to people and that you
18 folks, who are strong enough, who work mighty in
19 numbers, to go out and change.

20 And what happens is, for instance, we'll have
21 the same predatory lender, you know, where one
22 person will have a complaint, and then we'll go on,
23 and then somebody else will have a complaint, and
24 we'll have seven negotiated settlements with the
25 same lender.

1 DR. NAVATO: So the other part of the
2 question would be, of those institutions that tend
3 to perform these deeds, has there been any
4 statistics as to how many more loans that they have
5 continued to make after that one incident?

6 MS. WATSON: Only on home HUD data. But
7 what happens, is once they have made a complaint of
8 discrimination, there is a settlement. For
9 instance, Fairbanks was one of the biggest
10 predatory lenders in our area. Fairbanks was in
11 bed with Equa-Credit, so, which was owned by Bank
12 of America. So they were in bed together. And
13 what ends up what happens is once they started
14 filing complaints of discrimination, that person
15 told that person, and that went back to a non
16 profit. And then non profit went back to Fairbanks
17 and negotiated a settlement with these Fairbanks,
18 and now what happens is, any time a person files,
19 has a loan with Fairbanks, they have to be told of
20 the agreement of the settlement. They also have to
21 sign that they're aware of predatory lending. They
22 have to be educated prior to signing those
23 documents. And that's every Fairbanks loan in that
24 area. So things happen, they just happen slowly.
25 And it may not -- we may just be the catalyst but

1 it happens around.

2 DR. NAVATO: Thank you.

3 MR. PLUMMER: What's your phone number?

4 MS. WATSON: 913-551-6847. And on a
5 final note, I would like for you to tell, a lot of
6 times, a lot of the people I talk to find that
7 bankruptcy is the way out when they're in trouble,
8 when it comes to foreclosure. And I want you to
9 share that bankruptcy is not the way out when it
10 comes to -- when they get behind in their loans.
11 Contact the bank. And a lot of folks don't even
12 realize, contact the bank and let them know that
13 you're having problems, and once you contact the
14 bank, if the bank refuses to work with you, then
15 you contact our office.

16 Banks will do -- they have all types of
17 forbearance agreements, modification agreements.
18 Banks will do up to -- this is something they will
19 not tell you but I'm going to tell you. They will
20 do up to four and five modification agreements, up
21 to four and five forbearance agreements.

22 If you get into trouble, you never have to lose
23 your home. You can just talk to the bank and make
24 them work with you, make them help you with your
25 loan. Make them lower the payments, make them

1 aware that you know something's not right, and this
2 loan is not right and I need you to help me to keep
3 my house.

4 DR. MITCHELL: Thank you, thank you.

5 Mr. Ed Leahy.

6 MR. LEAHY: Thank you, everyone, and
7 what an inspiration Natasha was. I'll try to be
8 equally brief. If any of the public is interested,
9 there's handouts here as well.

10 It is indeed an honor to be here with you today
11 to discuss the impact of civil rights issues in the
12 immigrant communities that have just exploded
13 through our region in the past few years.

14 One thing we might misunderstand right from the
15 start is that issues about immigration, immigration
16 status, reform of immigration is not number one in
17 immigrant communities. The number one issues in
18 immigrant communities is discrimination. That's
19 what immigrants themselves are most concerned with,
20 discrimination.

21 The Number two issue is education. The number
22 three issue is jobs. Way down on the list is the
23 reform of immigration. And I think that's
24 important to know. It gives me a difficulty in my
25 job in organizing immigrant communities, because

1 they want to know, can I educate my children, keep
2 my job without suffering too much discrimination?
3 But I think the reform of immigration laws and
4 policies is imminently important, nonetheless, to
5 both immigrants and to those of us who are
6 citizens.

7 The last census period was a very instructive
8 time for our region. We began to have to forceably
9 recognize the elephants in the room. For ten years
10 we've known that our communities were growing, that
11 our demographics were changing, and yet there was
12 very little public policy engagement of these
13 communities and very little preparedness for the
14 issues. Captain Galan did an excellent job of
15 addressing that prospective, so I'll let that point
16 go.

17 One of the sheets that you have before you
18 shows a circle, and within that circle are the
19 various factors of a human being's life, the
20 concerns that we have for work, for family, for
21 health, for social life, political life, education,
22 et cetera. Within each of those segments of an
23 immigrant's life there are so many issues,
24 especially since 2001, that just surround them,
25 that has made their lives immensely more

1 complicated.

2 Among these are the most egregious issues, and
3 we'll center around civil liberties and civil
4 rights. So it's just that we are focusing on this
5 today, and I applaud you for making this a
6 particular focus of your listen session.

7 A couple of incidents just from our region. In
8 Dubuque, Iowa, there was an incident at the
9 Coliseum night club; actually, it's in east
10 Dubuque, Illinois, sin city, you know, where all
11 the college kids go and relax on Friday night.
12 Well, this thing happened one time, this man,
13 person of color, Hispanic got up from the group of
14 his friends, went to the wash room. Four or five
15 white men followed him in and beat him up.
16 Horrible thing. Crime, boys will be boys. Not a
17 lot happened as a result of that.

18 Same thing happened the next week to another
19 kid. Same kind of operation. Bar owner didn't
20 want anything to do with it. Police chief wasn't
21 all that interested in it. The college president
22 wasn't all that interested in making an
23 announcement to students, be careful, you know,
24 don't be hanging out at the Coliseum.

25 Happened again. This time neither police chief

1 on either side of the river was interested. The
2 Mexican-American Defense in Education Fund in
3 Chicago wasn't interested, and neither was the
4 Consulate. The Bishop wasn't all that interested.
5 Then the fourth time it happened to Steven, he was
6 beaten to the point of death. He didn't die, but
7 he was badly beaten. That incident happened in
8 September '02.

9 In December '02 the FBI reported that within
10 our region, we experienced a 1,600 percent increase
11 in hate crimes, reported hate crimes. We all know
12 that hate crimes are a violation of our human
13 dignity, that it's impossible, sometimes, to even
14 recognize and deal with and admit, I have been
15 hated simply for who I am, for the color of my
16 skin, for the sound of my voice, for where I live.
17 1,600 percent increase.

18 Norfolk, Nebraska. Bank robbery committed by
19 four U.S. citizens, just happened to be Hispanics.
20 The repercussions throughout the community were
21 equally great. People had difficulty getting their
22 utility bills paid. There was a great division
23 happening within that community. Been great
24 healing, there's been great progress with each of
25 these, but it's always just below the surface.

1 Someone mentioned earlier the fliers being put
2 out by the National Alliance. White supremacist
3 group. They frequently target immigration. They
4 target anything that might make a headline that has
5 to do with a person of color. And this group has
6 been prolific in that, and what they really want is
7 more headlines, more reaction to them.

8 We saw during the Immigrant Worker Freedom
9 Rights, an interesting collaboration between the
10 white supremacist groups and the restrictionist
11 groups, people who don't want to see immigration
12 reform, people who think that the 1996 Illegal
13 Immigration Reform Act and Immigrant Responsibility
14 Act, better known as IRAIRA is actually a good law.
15 It is not. It is a Jacobin, ridiculous, racist,
16 evil piece of legislation, slipped into an
17 appropriates bill on Page 546 to 725, right after
18 the Umslot (phonetic) River Land Exchange Study and
19 Small Business Programs Investment Act. And of
20 course, nobody read it, because that was an
21 appropriations bill that went to funding agencies
22 and commissions, although evidently, not your own,
23 and to raising salaries, and to funding wherever
24 the Umcuar (phonetic) River is. And yet, we
25 changed major policy that dealt with human beings

1 in a bill like that.

2 We saw the special registrations happen to
3 groups of Muslim men from particular countries,
4 while in our region, in the Iowa, Nebraska region,
5 the Homeland Security Department, only some 400
6 people were involved in those special registrations
7 and only one of them ended up in deportation
8 proceedings; it, nonetheless, had the effect on the
9 rest of us, reenforcing that idea that if you're
10 different, if you worship differently, you dress
11 differently, you sound differently, you look in any
12 way, shape or form, quote, unquote, un-American,
13 that you are a threat. It's unacceptable.

14 There's great confusion created, often coming
15 out of the Department of Justice, and Attorney
16 General Ashcroft, in particular, who likes to
17 suggest where we need to go to increase our
18 security, and what we see is that things that are
19 not policy and are not law and are not approved are
20 being practiced. Good example, the Clear Act. The
21 Clear Act is the Clear Law Enforcement for Criminal
22 Removal Act, which would deputize local police
23 departments with the authority to enforce federal
24 immigration laws. That is not the law. And yet it
25 frequently is the practice, as people stop and

1 departments begin certain procedures to inspect and
2 to trap immigrants and to ask questions that
3 they're not trained for and that they have no right
4 to ask.

5 I'm glad that we spent a lot of time on the
6 health and human services issues, because that's a
7 disaster for our immigrant communities in our
8 region as well. Recently we won a case in Nebraska
9 in the Supreme Court that restored the parental
10 rights of a Guatemalan woman whose children were
11 removed, not because of abuse, but simply out of
12 prejudice. She was deported, and the children were
13 put up for a adoption. The children no longer
14 speak their native language, which is not Spanish,
15 it was a Mayan language, and had no relationship
16 with their mother, who came back, who fought for
17 them, and who, gratefully, justice prevailed.

18 So, civil rights is still a big issue for all
19 of us. It's an issue not only for people of color,
20 it's an issue not only for citizens. No matter
21 what side of the comments of Mr. Cosby you fall on,
22 there's work to be done. And, there's critical
23 work for your commission, for your advisory
24 committees.

25 There is progress, however. Glad to say that

1 the FBI in one of its responses was to add agents
2 who especially investigate hate crimes and who are
3 looking into that issue. And the agent in our
4 district, Jeremy Knudsen, has been marvelous about
5 reaching out to community groups. He appears at
6 absolutely everything, and he is there and has
7 said, you know, we're on your side. I applaud
8 that. That's a healthy and proper attitude.

9 The Hate Crimes Community Counsel in Omaha has
10 been especially active and has been creating rapid
11 response teams, and even more, inviting other
12 agencies into it. Several state agencies in Iowa
13 and Nebraska, and I'm sure in these other states as
14 well, have been reaching out and holding
15 conferences and trying to educate and reach into
16 these newcomer communities, finally, this has
17 happened. We see it within organized labor, and we
18 see it within the plethora of the development of
19 new groups such as my own. Again, ten years too
20 late, but nonetheless, funding was made available,
21 interest was there, and, you know, there is
22 progress.

23 The progress has lead to some significant
24 legislation that is positive and pro-active. Among
25 them, the Dream Act, which would give children of

1 undocumented parents, who have grown up here, who
2 have attended our schools, live in our communities,
3 are truly bilingual, and who graduate from high
4 school, the opportunity to continue their studies,
5 to continue to be a contributing member of our
6 communities. It's a reasonable piece of
7 legislation. There are some 47 senators that have
8 co-sponsored in it, most of the senators in our own
9 region, and there's similar state legislation in
10 most of the states here. And gratefully, Kansas
11 just recently passed their own version of that for
12 the state level. But that is a piece of
13 legislation that, despite all of the support and
14 reasonableness of it, and has moved through the
15 legislative process, has not come up for a vote
16 yet. And that's something that we need to continue
17 to promote.

18 You have before you another sheet that lists
19 the various areas of immigration law that need
20 reflection and reform. There are seven principles
21 on that sheet. The interesting thing is that sheet
22 is coordinated by a group called Firm Fair
23 Immigration Reform Movement, which is a new agency
24 and a new collaboration between traditional
25 national' advocate groups and local grassroots

1 groups.

2 That vehicle shows us that the key is not only
3 a legislative reform, yes, there are very practical
4 things we can do, but also a community reform. An
5 attitude adjustment. Real sense of creating a new
6 fabric in which we are integrating, not
7 assimilating, but integrating these new communities
8 and communicating with them, sharing with them our
9 finest democratic values and traditions, the things
10 that have made us strong, and learning from them.

11 It's no secret that salsa outsells catsup.
12 More people eat tortillas than Wonder Bread. And
13 that's great. I often access the culture through
14 its food as well. But we have to move yet even
15 farther. So there's work to be done, there is
16 progress.

17 All of us benefit from having a fair, generous,
18 orderly, and secure immigration system. In the
19 words of President Bush, the system is broke. And
20 it's high time now that we begin to seriously look
21 at this. And, with great pride, our region has
22 seen the first introduction of a bill to talk about
23 that from one of our own regional senators, Senator
24 Hagel and Senator Daschle.

25 That won't pass this year, it's a posture bill,

1 it's the beginning, it's the floating of the ideas,
2 but that progress is not stoppable. What it will
3 require to see the success in the legislation will
4 be a whole movement not unlike the civil rights
5 movement. It's going to take the churches. It's
6 going to take the communities. It's going to take
7 each and every one of us, versing ourselves in
8 these issues and elevating them to the level of
9 importance that they bear, because we are a nation
10 of immigrants. That is our proudest heritage. And
11 at the best times in our history, we have risen
12 above the competing agendas to actually define our
13 laws and build our laws and structure our society
14 based on rights. From the very beginning it was
15 that way, even though everybody wasn't included, at
16 the very beginning. But at those very moments when
17 we can rise above the individual agendas and look
18 at the rights of individuals is when we truly know
19 what freedom is. Thank you.

20 DR. MITCHELL: I'll ask Mr. Garcia to
21 come up as the panel assembles. Before we have
22 questions, I wanted Mr. Garcia to make a short
23 presentation and then the panel will assemble.

24 MR. GARCIA: We were kind of hoping
25 that --

1 DR. MITCHELL: You want to do it with the
2 panel?

3 MR. GARCIA: That my colleague, the
4 Director of African-American Affairs for the State
5 of Kansas and I do our equal time or shared time at
6 this juncture. We're kind of in a time schedule
7 and we need to get back. So we thought if we could
8 come up here and do our thing, maybe we can take
9 off, if that's okay.

10 DR. MITCHELL: Yes.

11 MR. GARCIA: So, with that I appreciate
12 that, and thank you very much for the invitation to
13 come and speak today.

14 First of all, let me thank each and every one
15 of you for the work that you're doing. It is not
16 easy, it's a thankless job that you're doing, and
17 we appreciate that, we recognize that and
18 congratulate you for your efforts, and thank you,
19 again, on behalf of the community of people who
20 don't always get the chance to say thank you, so we
21 want to do that right off the bat.

22 I am the director of the Kansas Hispanic and
23 Latino American Affairs Commission. Now that is
24 different than it was two weeks ago. Well,
25 actually, it began in January, legislative session.

1 We are a creature of the legislature with this
2 Advisory Committee on Hispanic Affairs, which it
3 was formerly known as the Kansas Advisory on
4 Hispanic Affairs. We're a creature of the
5 legislature, therefore any changes made to any
6 organization or verbiage in that legislation, we
7 have to go back to the legislature and change.

8 With that in mind, we rewrote a bill, submitted
9 it to the legislature, lobbied it and got it
10 passed. It was House Bill 2435. But also with
11 that was the African-American affairs. Together we
12 drafted this bill and pushed it to the legislature.
13 They also are a creature of the legislature. We
14 had changes, all of us needed to make some positive
15 changes.

16 I'm new to this position. Ms. Swopes,
17 Dempsey-Swopes is new to this position, so we
18 thought, since we were new, we might as well go in
19 there and reorganize, which is what people often
20 do. So we are the Kansas Hispanic and Latino and
21 African-American Affairs Commission. That's the
22 three changes we made. First of all, we changed
23 the name. Second one, was we moved to the
24 governor's office. We're no longer under the
25 Department of Human Resources.

1 The third change was we became a commission as
2 opposed to an advisory committee. So those three
3 changes were in the legislation and we got them
4 passed. I say two weeks ago, because the governor
5 just signed it last week. So we are officially in
6 the books. So we're very happy about that.

7 I was going to talk about immigrant rights in
8 Kansas, and, again, I compliment my colleague here
9 for the excellent job that he did in his
10 presentation. But I want to note and make it,
11 especially highlights for you that immigrant, the
12 term itself, has taken on a new meaning post 911.

13 We all grew up with that term, especially
14 myself. I come from an immigrant home. My parents
15 are farm workers from Mexico, undocumented, so we
16 grew up with this kind of environment or community,
17 et cetera, et cetera, Spanish speaking. Spanish
18 was my first language. To this day I don't know
19 how to speak English very well but I give it a
20 shot. In any case, we try.

21 But immigrants since post 911 has taken a whole
22 different tone. It is a negative connotation that
23 we apply to this term that has been with us for
24 years and years. Many of us, myself included,
25 don't understand what the big deal is.

1 Immigrants, the first Hispanic was in Kansas in
2 1541. Who was the immigrant? We were here, we've
3 been here. My father is one of the people that
4 will tell you, I didn't cross the border, the
5 border crossed me, and many people feel that way.

6 So with Coronado leading the way back in 1541,
7 and since that time we've had a lot of people
8 immigrate to Kansas and the Midwest. But after
9 911, that took a totally different spin to it. And
10 since that time we've been trying to redefine and
11 find ourselves and find that medium again that we
12 can live with, and that is the hardest thing for us
13 to do in this day and age, for all Americans to do,
14 is come to terms with that immigration policy.

15 Politically, we are a political organization.
16 No doubt about it. We are appointed by the
17 governor, we have to go through the legislature,
18 and everything we do has to go through some sort of
19 process and procedure in the government system.

20 So this legislative session we tracked many
21 bills dealing with immigration and laws pertaining
22 to Hispanic community. When people talk about
23 immigrants in the legislature, we found, and many
24 times it's on the record for many of the
25 legislators, meant terrorists. And they acted that

1 caveat whenever they did discuss immigrant issues.
2 We're talking about terrorists.

3 So when we put forth a couple of bills, one of
4 them was mentioned, our version of the Dream Act,
5 it was House Bill 2145, that allowed our students
6 to go to school, higher education at the same rate
7 as other students. The national is the Dream Act.
8 If that would have passed, our bill would have been
9 moved. It would have been a done deal. But we
10 pushed that bill and we pushed that bill and we got
11 it through. And when I say to all my minorities in
12 this room that minorities have to do things twice
13 as good, and we have to be twice as smart, and we
14 have to be twice this and twice that, when it came
15 to passage of this immigration tuition bill, we had
16 to pass it twice. That's the irony of this whole
17 bill we passed.

18 We passed it through the House, the senate. It
19 was kicked back to the House because it was
20 ulteriorly, says the interpretation the House
21 speaker put to it, so we had to start over again.
22 So we had to start over with another bill. Luckily
23 we ran two bills at the same, anticipating some
24 kind of maneuver like this, so we just transferred
25 all the information into another bill and had it

1 passed, got the votes again, so we had to pass it
2 twice.

3 Right now we have a Wisconsin-based
4 organization called FAIR on the Internet, if you
5 look on the Internet, telling all the students in
6 Kansas, if you want to challenge that law we will
7 help you challenge that law. Kansas is the eighth
8 state in the country to pass this particular bill.
9 We're not the first, we're the eighth, and we're
10 proud of it, actually. But yet, there's still
11 challenges to something that's a no-brainer. I
12 mean, who is against education for the kids?
13 They're out there, I guess, I don't know what it
14 is.

15 There's 43 million Hispanics in the United
16 States, 43 million. Half of those 43 million are
17 under the age of 25. Now think about that. When
18 we talk about the government and entitlement
19 programs like Social Security, like all these
20 entitlement programs that we have, who is going to,
21 in the next 20 years, pay into that if we don't get
22 the population to start paying into the tax basis
23 and start paying into those entitlement programs.
24 I certainly want to see my social security. I'm
25 not that far away, by the way.

1 So, I think it's only common sense to get our
2 immigrant populations, who are right now viewed as
3 terrorists, even by our legislators, to not only
4 get acclimated into the system, but matriculate it,
5 legally metriculate it. And we have to do
6 everything we can to make that process easier.

7 The education bill was one, we tried to get a
8 driver's license passed. That was House Bill 2039.
9 That never went anywhere. We had hearings in
10 January, and never came out. Again, on the floor
11 of the House one of our distinguished
12 representatives got up and said, "If we pass this
13 bill we have just opened the door to terrorists in
14 Kansas." We're talking about driver's license.
15 But yet, the subject, because of immigrant, has
16 turned, so we're fighting not only historical
17 racial types of battles and struggles, we're taking
18 on new battles and struggles, global battles and
19 struggles that include and are defined by the
20 actions of a few terrorists.

21 So our message, our struggle, our focus is
22 clear to us. We need to keep fighting every day.
23 And I'm glad that my friend here is doing the same.
24 And I'm glad that you guys are doing the same. We
25 have to every day come out and not get beaten down

1 by that, because we've been beaten down all our
2 life. We're used to it. If it doesn't happen we
3 wonder if something is wrong with this world. But
4 we have to keep our focus, and we have to go above
5 and beyond some of these definitions that are
6 placed on us and imposed by us, or on us.

7 So we have to go through the process and
8 procedure, and sometimes that's difficult to do.
9 Because we are part of governor's office now, we
10 represent the governor in many ways, in many
11 venues, but, also, we have to take back new ways,
12 new ideas, new programs, new policies, and we have
13 to draft them and try to make them systemic that's
14 going to help our community.

15 Our community is the future. The Hispanic and
16 Latino community is the future. There is no way
17 around that. And change is a very hard thing to do
18 for anybody. The African-American community knows
19 that better than anybody else. Now the change is
20 going around again, the circle's going around
21 again, and now change is getting more difficult and
22 layered and more difficult, and it is not an easy
23 thing to do, and the only thing that why people
24 change is because they need to change. And the
25 United States at this point in time is beginning to

1 see that we need to do something, and that
2 something is change.

3 So, we are here, my office is here to help
4 educate, to help collaborate, and to help form
5 coalitions for the future that's going to help
6 change this community for the better. And this is
7 why I am proud to serve with my colleague here in
8 African-American Affairs because that's what we're
9 all about, we're trying to make coalitions. So
10 with that I will give it to Danielle
11 Dempsey-Swopes.

12 DR. MITCHELL: You need to state your
13 name and your position for the record.

14 MS. DEMPSEY-SWOPES: I am Danielle
15 Dempsey-Swopes. I'm the Executive Director of the
16 Kansas African-American Affairs Commission. And
17 again, thank you very much for allowing me to take
18 my turn out of order. I apologize, we are on a
19 little bit of a time constraint. I also have a
20 little bit of a sinus allergy problem, I will try
21 not to sneeze through my presentation.

22 As Mr. Garcia said, we are very pleased to now
23 be a part of the office of the governor, and for
24 our state that means a great deal of change. For
25 our organization what it means is, when the

1 Department of Transportation is talking about their
2 challenges to hire people from our community who
3 will be at the table to help them do that better,
4 when SRS is talking about these new changes in
5 their system of foster care and issues with
6 children, particularly children of color, families
7 of color and joblessness, homelessness, all of
8 those issues, we are now at the table with the
9 Secretary of SRS, to be a part of their new
10 committees, their new boards, and dialogue with
11 them about what we can do to change and what we can
12 do to be proactive, and what we can do better.

13 Before, that didn't happen. There were not --
14 those kind of representatives were not at that
15 table, they did not have the authority as a
16 representative of the office of the governor's
17 office. So we have, now, to serve in that
18 capacity, so I'm very pleased.

19 One of the most important things that we did
20 this past four, five months, we've really been very
21 focused on getting the change in our structure and
22 our physical location done. The only other thing
23 that I really wanted to mention, to add, is that we
24 worked very hard to deal with a bill on racial
25 profiling in Kansas.

1 Many of you know that the state of Kansas, the
2 legislature funded a study on racial profiling on
3 highways in Kansas. And the study came back with
4 results that were really not good. Particularly,
5 the agency that had a lot -- that probably did not
6 come out looking so well as a conclusion of that
7 report was the Kansas Highway Patrol.

8 Well because of the position that we are now
9 in, and because the Kansas Highway Patrol now has
10 new leadership that is very concerned about this
11 issue, we've been able to work with them to talk
12 about the training programs for the highway patrol,
13 to talk about how officers are disciplined, how
14 racial profiling issues are addressed, and that
15 didn't happen before. So we're grateful for that
16 study, and we're grateful to be a part of
17 supporting a bill that would make the practice of
18 racial profiling a misdemeanor type act and carry
19 with it misdemeanor type penalties.

20 That bill also mandated changes to all law
21 enforcement agencies, not just the Kansas Highway
22 Patrol. So for example, if the Kansas City, Kansas
23 Law Enforcement Agency had problems, they don't
24 necessarily have to pay any attention to this
25 report, they don't necessarily have to do anything

1 about that, but this particular bill, Senate Bill
2 2008, Senate Bill 513 and House Bill 2875 would
3 make those changes. And so we were very pleased to
4 work to support that bill. Both of those bills
5 died, but we are not daunted. We will pick up the
6 gauntlet next session, and before the session
7 starts, even, and we'll work again to see if we can
8 make those changes in Kansas.

9 In the fiscal year 2003, our Commission -- I
10 wasn't in this role, but my predecessor and
11 commissioners on our board at that time conducted
12 town hall meetings throughout the state. They
13 wanted to find out what were the concerns of
14 African-Americans in Kansas, particularly issues of
15 equity.

16 At that time Kansas African-Americans said that
17 their top three concerns really were education,
18 corrections issues, corrections policies, health
19 care, and then jobs. So our commission has now
20 then focused, and particularly in light of riding
21 this tide, this wave in celebration of the 50th
22 anniversary of Brown versus Topeka, and we are
23 really taking a hard look at equity issues in
24 education.

25 We're working with faculty from both K.U. and K

1 State to have them conduct some more formal studies
2 on education in Kansas. We hope that that formal
3 study will get our legislature moving again real
4 soon and get them focused, again, on that agenda
5 and, hopefully, have the education finance bill,
6 some education finance change that is sorely needed
7 in our state. So we're working to do that.

8 Again, my head is full of sinus and allergy
9 medicine, but I think I've pretty much covered
10 everything, and I wanted to be brief. I hope that
11 gives you at least an overview of who we are and
12 what we were doing and how we are involved in
13 equity and civil rights issues for
14 African-Americans in the State of Kansas.

15 DR. MITCHELL: Panel, do you have any
16 questions you want to ask the panelists right now,
17 before we move to the final phase?

18 MS. VALENCIANO: Rita Valenciano,
19 Missouri State Advisory Committee.

20 Mr. Garcia, I understand that FAIR, you say
21 that they've been soliciting Kansas students to
22 join with them. Could you elaborate a little bit
23 more on that, and, also, could you tell us what
24 FAIR means, if you do know?

25 MR. GARCIA: They're out of Wisconsin,

1 and it's something about immigration reform, the
2 first two is Federation for America -- Federation
3 for American Immigration Reform. They testified in
4 the hearings against the passage of the student
5 tuition bill, immigrant tuition bill, they
6 testified.

7 And again, they were one of ones that were
8 saying, you know, terrorists are going to come
9 in -- and they actually had pictures of the
10 terrorists, of the 911 terrorists that they
11 brought. It was pretty dramatic. It was pretty
12 striking testimony, I got to admit. But one of the
13 things that was even more striking was one of the
14 terrorists went to Wichita State University. And
15 that's the whole point that they were trying to
16 make, is that, you know, in passing this bill we
17 allowed the access into Kansas.

18 What they're doing is on the Internet, just an
19 open letter to everybody, students, that's saying
20 that they oppose this, they still oppose it, they
21 think it's bad for Kansas, it's bad for the United
22 States, and they are willing to help whatever
23 student is interested in fighting this, they would
24 be glad to pick up the legal gauntlet and file a
25 class action suit. They're trying to get people to

1 join a class action suit.

2 MS. VALENCIANO: One more comment, Mr.
3 Speaker.

4 I heard that their concern with this was that
5 it would disenfranchise Kansas students who want to
6 go to college, is that?

7 MR. GARCIA: For some reason they think
8 that this is an entitlement of some sort to our
9 community to immigrant students, that they are
10 getting special treatment or something like that,
11 that they are going to get subsidies or something.
12 None of that could be further from the truth.

13 MS. DEMPSEY-SWOPE: There was a
14 representative from the Kansas House who said, why
15 should my children who have been here pay more to
16 go to school than those people who just come here?
17 And -- but it's awful, and what it shows is that he
18 completely does not understand even how the process
19 works.

20 These kids have been here and gone to school.
21 They have met all the requirements for graduates,
22 graduation of the Kansas high schools, just like
23 any other kids. What it does is level the playing
24 field. It doesn't give them any advantage. But
25 they're members of the legislature, and they

1 clearly don't understand that.

2 MR. GARCIA: I failed to introduce and to
3 say how proud we are -- we always talk about
4 bringing up our youth and being mentors and having
5 them in the next generation of leadership, I forgot
6 to mention our intern out of my office, Mr. Wakef
7 Zamia (phonetic) Wakef, do you want to stand up
8 here?

9

10 (APPLAUSE)

11

12 MR. GARCIA: Wakef is one of the next
13 generation Latino leaders in Kansas. And if you
14 read in some of the publications, the newspapers
15 here in the next week, you're going to see an
16 editorial by him regarding this very issue of
17 reform, and I thought it was pretty poignant and
18 very strong, and I'm really proud of the work that
19 he's doing for our office.

20 With that, I would say that the whole immigrant
21 context and definition in the legislature has been
22 that of dealing, first of all, not only on the
23 merits of the legislation and the value of that
24 legislation, but we have to start off by saying, we
25 are not terrorists, and that is a sad state of

1 affairs.

2 DR. MITCHELL: Thank you very much.

3 MR. GARCIA: Yes, sir.

4 MR. NULTON: Mr. Chairman.

5 DR. MITCHELL: Sorry. Yes.

6 MR. NULTON: Bill Nulton from Kansas.

7 This is a little off the subject, but you brought
8 up the matter of the efforts to get additional
9 education funding. To demonstrate the degree of
10 the problem and the lack of attention to the
11 solution, could you give us the figures as to what
12 the legislative, a year or two ago, they made a
13 request for a study to be made by an expert who
14 came in and studied under Kansas what the fair
15 amount for the state to pay under the constitution,
16 what was that figure?

17 MS. DEMPSEY-SWOPES: I'm sorry, I don't
18 know what it was.

19 MR. NULTON: I believe it was
20 \$871 million. What was the highest proposal either
21 in the senate or the house to fund education in
22 this last session?

23 MS. DEMPSEY-SWOPES: The highest proposal
24 was, the governor's proposal took a three-year
25 approach. The highest proposal that the

1 legislature came up with is they would fund about
2 one year of her three-year approach. And I'm
3 sorry, I don't have the figures for that, but they
4 only got so far, as really a third of what was
5 needed. And I do know that the governor's
6 recommendation did take a careful look at that
7 study and proposed pretty close to it, the amount
8 that that study recommended, but I don't know the
9 exact figure.

10 MR. NULTON: Okay.

11 DR. MITCHELL: Thank you very much. Yes.

12 MR. PLUMMER: Question for Mr. Leahy.

13 You mentioned in your presentation that the
14 immigration population has increased by over a
15 thousand percent; is that in the State of Iowa or
16 the Dubuque area?

17 MR. LEAHY: If I said a thousand percent,
18 I misspoke. I said it has grown quite a bit.
19 Actual figures placed Nebraska 7th in the nation in
20 terms of overall growth. Attributed to
21 immigration, that came in at about 155 percent
22 growth. Iowa would be about 12. Kansas, Colorado,
23 Oklahoma are all around those same areas.

24 The statistics also would illuminate, kind of,
25 all their unusual things. In the southern corridor

1 of Iowa that borders with Missouri, more than a 300
2 percent increase in immigrant populations in that
3 area.

4 MR. PLUMMER: Is that eastern or western?

5 MR. LEAHY: From east to west.

6 MR. PLUMMER: All the way across?

7 MR. LEAHY: Yeah. From Red Oak to
8 Shennandoah, Ottumwa to Burlington, 300 percent
9 increase. Yet, that area lost adult populations
10 still. And that statistical anomaly is due to the
11 fact that immigrants are young and have a lot of
12 children. And still, within that entire area,
13 there wasn't more than about -- we're not talking
14 more than about 3000 people. Because we're largely
15 rural states, we don't have the numbers. You know,
16 this isn't Chicago. The actual numbers of people
17 is not that great. But the percentage and the
18 change and the dramatic impact of reshaping the
19 color of our states is tremendous.

20 There are several cities in Nebraska that have
21 a 50 or 60 percent Latino population. Within
22 10 years, that's a dramatic change. Our states,
23 Iowa and Nebraska I know best because that's where
24 I work, you know, before 1990 were 98 percent
25 white. We're still in the 90 percentiles. But the

1 dramatic change in smaller areas is tremendous.

2 Another example I frequently give to illustrate
3 that impact is if you're driving to West Point,
4 Nebraska along Highway 275, the first thing you see
5 is the IBP meat packing plant. The next thing you
6 see is a nursing home. Then there's a funeral
7 parlor, another nursing home, two more funeral
8 parlors, a McDonald's, and you're out of town. 275
9 is not Main Street in West Point, Nebraska, it's a
10 block south. And on Main Street you find
11 LeLanderes restaurantes, Asapata Ria, (speaking
12 Spanish) --

13 THE COURT REPORTER: Excuse me.

14 MR. LEAHY: You'll find Hispanic
15 assistance. We're make that a verbal assault for
16 the committee.

17 DR. MITCHELL: But for the record you
18 might put in Spanish restaurants.

19 MR. LEAHY: Yeah. And Hispanic
20 businesses. Really. And the schools in that town
21 are at capacity, at capacity. It's not a dying
22 town whose principal business is meat packing and
23 funerals. It is a town that has a future and is
24 going to be around. And that's why we must bring
25 public policy to these issues. We have got to

1 acknowledge, as I say, the elephant in the room,
2 because it's there.

3 DR. THOMPSON: Mr. Chairman.

4 DR. MITCHELL: Yes.

5 DR. THOMPSON: I'm Cora Thompson from
6 Missouri with a little bit of background in Iowa.
7 And I wanted to know about the Thai Dom
8 Resettlement that happened in the early 1970s. Has
9 there been an increase in immigrants due to that
10 resettlement or has there been an increase in
11 immigrants from Vietnam and Laos from that?

12 MR. LEAHY: Well, for agent and Pacific
13 Islander communities, current immigration laws make
14 it very difficult to reunite families. There's
15 long lists of waiting periods. The resettlement in
16 those, in that time, in the 70's, when I did not
17 live here, and I'm not aware of all the issues of
18 that, has stabilized and they've become a vibrant
19 part of the communities.

20 They've tended to concentrate, so that would be
21 in Sioux City, there's still a large community, and
22 Crete, in eastern Iowa, Muscatine area. And so
23 these communities have, you know, become part of
24 the fabric of American life, as will the
25 communities that we're seeing today. It's going to

1 take generations. But the difficulty for the
2 resettlement of those people is that they are
3 refugees. That is a different class of immigrant
4 that we should be aware of.

5 In the 1980s, the United States accepted about
6 280,000 refugees per year. This past year, it has
7 been less than 25,000. So refugee families have a
8 very difficult time reuniting. The other thing
9 about that is that is -- a refugee receives their
10 status from the United Nations, and then countries,
11 member countries of the United Nations accept the
12 refugees. The refugees don't get to decide where
13 they will go. They are told where they will go
14 based on available space. So for example, our
15 Sudanese community may have family members who are
16 resettled in France, and then can't come here to be
17 with their family member resettled in Lincoln or
18 Des Moines. And those are tremendous other
19 barriers.

20 MR. PLUMMER: Al Plummer. I stand
21 corrected, you did not misspeak, I believe the
22 thousand percent that I was referring to, which is
23 an increase in hate crimes.

24 MR. LEAHY: In hate crimes, yes. That
25 was a 1,600 percent increase.

1 MR. PLUMMER: Right. Now was that the
2 Dubuque area or the state of Iowa?

3 MR. LEAHY: Actually, that was
4 nationally, but that same percentile increase we
5 would see almost locally as well.

6 MR. PLUMMER: Locally being the state of
7 Iowa or Iowa and Nebraska?

8 MR. LEAHY: Regionally. Within the
9 region. You know, that's why we have to have
10 police cars, even still today, parked in the mosque
11 parking lots on Fridays. That's why there are nude
12 slogans, graffiti done to walls, and the handouts,
13 these fliers that are flown into people's yards.
14 That's why we've seen any number of hostilities
15 happen.

16 One badge of honor that I wear was the Grand
17 Island Tribune published an article or a letter to
18 the editor in which I was labelled a shameless
19 apologist for criminals. I'm proud of that,
20 because I'm a shameless apologist, but the people
21 are not criminals.

22 DR. MITCHELL: Thank you. Will the panel
23 please assemble.

24
25

(Brief Recess)

1 DR. MITCHELL: We will start with the, as
2 they're listed in the panel on this program. So
3 Mr. Steve Skolnick, Deputy Director first.

4 MR. SKOLNICK: I'm Steve Skolnick, I'm
5 the Deputy Executive Director of the Missouri
6 Commission on Human Rights. I'm here today on
7 behalf of my executive director Donna Cavet
8 (phonetic) who is in Washington D.C. at a HUD
9 event.

10 HUD has a new housing training for all housing
11 investigators out of Howard University, and they
12 have invited most of the directors to attend that
13 and to see what the Fair Housing Academy is going
14 to be about and how they're going to be doing their
15 training. So she sends her best regards and wishes
16 and thinks this is a very important event.

17 Basically, I was told you wanted to know about
18 the relationship that we have with the Federal
19 Government, our federal partners, how that's
20 evolved through the years and how that's helping us
21 through these very difficult times.

22 Well, the good news is that, you know, through
23 the funding and support of EEOC and HUD, we're able
24 to do many things that we could not do otherwise.
25 The bad news is that it's a very tough time for

1 state budgets and for funding.

2 So for example, approximately six years ago,
3 seven years ago, we had approximately 53 FGE
4 employees working for the State Human Rights
5 Commission, and today we have approximately 44 FGE
6 employees working for the state in the Human Rights
7 Commission, and that's in spite of an increase in
8 funding from our federal partners.

9 Just to give you an idea of what's going on in
10 this society in terms of the enforcement side of
11 what we do, from fiscal year 2000 to fiscal year
12 2003, and our physical years in Missouri go from
13 July, I should say from July 1 through June 30th,
14 we've had an increase in 225 additional cases.

15 So that is a very significant increase in case
16 load and there doesn't seem to be any end to that
17 pattern, that's been the pattern in the, oh,
18 approximately 11 years I've been with the
19 Commission, and when I talk to people like my
20 director, Donna Cavet who's been there over 30
21 years, that's been the consistent pattern,
22 increased responsibilities and increased need for
23 our services. And yet, you know, resources are
24 very difficult to maintain.

25 In terms of what we're able to do because of

1 that federal funding, I think that's very critical,
2 and in terms of our emphasis, one of the things
3 besides enforcement that we think is very, very
4 critical is to get the word out, to let people know
5 that we're there, and to also talk to people about
6 their rights and responsibilities under civil
7 rights law.

8 To that effort, our education and outreach over
9 the past year, we've conducted approximately 159
10 education outreach training sessions. And I will
11 point out that that's part of a working, kind of,
12 we're trying' to work smarter and harder with the
13 same resources, so the way we do training is there
14 is no training staff specifically on any training
15 slots that we have at the Commission.

16 What we've done is our executive director, who
17 does training, has offered to any staff who's
18 willing to do this, above and beyond their
19 responsibility, the opportunity to go through a
20 train the trainer session and go out and train
21 individuals. And that's how we maintain a high
22 training function. There's no training unit, no
23 training positions.

24 We've done 159 trainings, education outreach in
25 the last year. 22 percent or 35 of those trainings

1 have been with schools, and one of the things I'm
2 going to emphasis as I talk about the federal
3 partnership, we think that one of the best ways to
4 reach the parents, the diverse groups of
5 individuals that we want to serve is through their
6 children. So that has been a real emphasis for us,
7 outreach to children, outreach to schools.

8 We've done 41 trainings, 26 percent with
9 government entities, 83 trainings or 52 percent of
10 our trainings with private businesses. And we've,
11 you know, overall trained in those 159 trainings,
12 we've had direct contact with 5,300 citizens of the
13 State of Missouri, or residents of the State of
14 Missouri, to be more accurate, to tell them about
15 what we do: 43 percent of those trainings are in
16 the area of sexual harassment. 40 percent cultural
17 sensitivity.

18 As you've talked a lot about the different
19 issues around the change of demographics in our
20 country, that has been, in any venues, be it the
21 schools, be it in government or be it in the
22 private sector, they are aware of that and they're
23 saying, we have different people coming from
24 different cultures with different customs. How we
25 want to have a harmonious effect at the workplace,

1 and we know we need to have diversity in order to
2 be competitive.

3 We can't afford to have -- to say that this
4 group is not going to have equal access to
5 employment, we need the best, brightest people we
6 can get. How do we help them understand each other
7 and get along better? I think that's represented
8 in the high percentage of trainings we're doing in
9 cultural sensitivity. It's only 3 percent less
10 than sexual harassment, which, since the time of
11 the Anita Hill, Clarence Thomas hearing has been
12 our number one area of training. So I think
13 that's, you know, very interesting and does show
14 how the trends are going.

15 Now in terms of what we're able to do, one of
16 the things that's really helped us in terms of our
17 partnership besides the fact that both EEOC and HUD
18 have tried to maximize the kinds of dollars and
19 technical support they've given us, is HUD has a
20 partnership initiative program, and that's been
21 critical in these tough times to do really
22 creative, important good work. And what that does
23 is that provides us money to a partner and
24 sometimes to directly outreach with various groups
25 in our community to talk about civil rights and to

1 do training.

2 So some of the projects we've had, and they've
3 been pretty acceptable is under that last, not this
4 session but the prior round of private initiative
5 partnership funding, HUD did a national survey to
6 look at people's knowledge of fair housing laws,
7 how they work, what was legal and illegal, and what
8 barriers there may be to utilizing HUD in terms of
9 putting in complaints of discrimination, because we
10 know there's severe under-utilization in terms of
11 the people out there who says, I'm discriminated
12 against, and that we actually then translated to
13 complaints of discrimination, you know there's a
14 problem.

15 So they did a national survey out of -- and the
16 survey was done by the Michigan Institute of Social
17 Research out of the University of Michigan, one of
18 the top social research, if it is not the top
19 agency that does social research survey research,
20 specifically in this country.

21 We backtracked on that, we developed a local
22 survey for the City of Jefferson City with CURE,
23 which was a local group that was looking to deal
24 with racial equity and racial issues in Jefferson
25 City, and we piggy-backed onto that national

1 survey, asking the same questions to local people
2 in Jefferson City, the need for a human rights
3 agency within city government. And there had been
4 an old ordinance, they had taken it off the books
5 kind of quietly without telling anybody because
6 there had never been an active civil rights, there
7 hadn't been in anybody's memory, at least in a
8 couple of decades.

9 And in the survey, we asked people, do they
10 think there was a Human Rights Commission or some
11 other government entity to deal with human rights
12 in city government? And if there wasn't, do they
13 think there should be. And basically, people
14 thought there was, and there was not, but if there
15 wasn't they strongly thought there should be. I
16 wish I could give you the exact percentage now but
17 I know it was over 90 percent. And the citizens in
18 CURE, along with other groups in Jefferson City
19 were able to leverage that and come up the, which
20 is now the Jefferson City Human Relations
21 Commission.

22 They're not a full enforcement agency, but they
23 are emphasizing the education training side, and as
24 they do their work utilizing us and acting as a
25 referral source to us for complaints of

1 discrimination. But we think from a project that
2 that's really major progress, that the city
3 government in Jeff City reversed its stand and
4 said, yes, it is important that we have an official
5 government entity that deals with trying to help
6 and make increased cultural awareness, create
7 harmony between diverse groups, really let us deal
8 with those kind of issues and have somebody that
9 you can go in and talk to and help you find the
10 correct resources to deal with problems along those
11 lines.

12 So that to me was major progress. It would not
13 have happened, I don't think, without that survey,
14 which has also helped us look at some of those
15 barriers.

16 In addition to that, we've got some projects
17 that we've done this year that I think are quite
18 exciting. We've had an essay and poster contest,
19 and we're going to try and make that an annual
20 event for the children for the State of Missouri,
21 from 7th through 12th grade.

22 At this point we'd like to extend it down to
23 the younger ones. That means that we sent out
24 information about their housing to 900 schools in
25 the State of Missouri. We had many participants in

1 that event and, you know, some winners in the
2 poster contest, in the essay contest. We're now
3 asking HUD for the money to make that into a
4 calendar with the essays and the posters so that we
5 can really kind of take that, disseminate that with
6 information about fair housing. And we know that
7 by reaching the young ones, they're the ones that
8 are going to reach their parents and often talk to
9 their parents, and we think that's critical.

10 Very quickly, we also have done an outreach
11 with families and individuals in distress, what's
12 normally called the homeless. What we've done is
13 we're really looking at populations that are
14 vulnerable and might be at risk. And the homeless
15 is a diverse group, there's not one ethnicity in
16 the homeless, not one national origin, not one
17 race. I mean, the homeless make up all, you know,
18 really reflect the demographic of society in some
19 significant ways. So we've ran a project with the
20 local Salvation Army, Harbor House in Columbia,
21 Missouri as a pilot. And part of that's been,
22 again, because of HUD monies.

23 Now what we've done is we come in there, we
24 come in there once a month every other month. One
25 month we do housing discrimination, the other we

1 cover the other kinds of discrimination in
2 employment and public accommodation. We make an
3 investigator available through the case managers
4 there to come into that site and to take complaints
5 at the site. And the case managers, one of the
6 parts of the model that HUD has helped us with is
7 we wanted to train staff, so that they can really
8 identify when their clientele is having problems
9 and help them learn about our systems and interact
10 with our systems and get to us.

11 And what we did this year is we had a training
12 on a day in which there was flash floods all over.
13 25 people showed up from social service agencies
14 and Salvation Army staff throughout mid Missouri to
15 learn about fair housing and what fair housing was
16 about and how the laws worked and how to file
17 complaints of discrimination.

18 So now we have 25 staff people who have
19 expertise in social service agencies throughout mid
20 Missouri on fair housing, and of course we also put
21 in some of the other kinds of -- the other
22 protected areas that we have in public
23 accommodation and employment who are going to act
24 as individuals, who are going to identify that with
25 their clientele, help educate their clientele, and,

1 again, any of those agencies that asks us and has a
2 client and needs our services, we will come on
3 site, and we will take that complaint. We think
4 that's, you know, important. We also, just in
5 passing -- and that training was because of HUD
6 money -- have a video. Wrap it up -- five minutes.

7 This video that's going to be coming out soon
8 is based on a comic book we have. We have the "Win
9 Team" that kind of looks like guys and gals from
10 Matrix, and they're going to teach kids about fair
11 housing, and, hopefully, their parents will be
12 watching the video too. So those are the kind of
13 things we do.

14 Finally, what I want to say, I know time is
15 short, is that if you ask me what we can do for the
16 federal, state relationship, EEOC, we really think
17 very highly of. They do their best to have a
18 really good relationship with us. Their budget is
19 at risk. That is a critical issue for us.

20 In addition, in terms of their relationship
21 with us, it has been over 10 years since they have
22 been able to increase the amount of money they pay
23 us to assist us in processing cases of employment
24 discrimination. We're still getting \$500. With
25 the crises in state government, some of which,

1 unfortunately, I think are the responsibility of
2 the Federal Government, we need to support EEOC,
3 and I would urge you as an advisory committee and
4 your commission to do everything you can to support
5 EEOC in terms of the budget for their staff and to
6 see if there's anything that can be done to give us
7 a more realistic reimbursement than that \$500.
8 Thank you so much.

9 DR. MITCHELL: Thank you. Super. Can
10 you wait with your questions? I'm sorry, can you
11 pronounce your name for me?

12 MR. POTHAST: Pothast. I'm Ron Pothast
13 with the Iowa Civil Rights Commission. I'm
14 executive Officer and Legislative Liaison. I'm
15 here on behalf of Ralph Rosenberg who is a new
16 director as of about, just a little over a month,
17 almost two months now. He had a meeting, a retreat
18 with the governor today, so he asked me to come.

19 We have somewhat of a similar situation as
20 Missouri as far as budget going on the state level.
21 We've dropped about 34 percent in the last
22 three years. We've dropped from 38 staff to 27.
23 So that's very similar there to what you had. Our
24 federal funding has gone from being 40 percent of
25 our budget to now it's 60 percent, and that has

1 really helped to have the funding from EEOC and
2 HUD.

3 I wanted to talk a little bit about some
4 issues. This kind of goes along with what Ed
5 talked about a little bit ago. There's a need for
6 increased accepted diversity in the State of Iowa.
7 The state has a population demographic of 97
8 percent, 3 non white, but the growth in Iowa is a
9 non white population. So demographics are being
10 changed and people need to be more aware of that,
11 legislature needs to be aware of it and needs to
12 change some of the thinking.

13 I wanted to talk about some of the legislation
14 that was somewhat successful this year. There was
15 a resolution in the state senate, it was going to
16 be in the House, also, but it was defeated in the
17 senate, and the resolution was going to be an
18 amendment to the Iowa constitution. It was going
19 to state only marriage between a man and a woman
20 shall be valid or recognized in the state of Iowa.
21 And that lost by one vote in the senate. The
22 majority party voted with the minority parties to
23 stop that.

24 Another success was the enactment of a bill
25 authorizing the Commission of Latino Affairs to

1 ensure qualification of the Spanish language
2 interpreters and to provide lists of qualified
3 interpreters to courts, administrative agencies,
4 social service agencies and health agencies.

5 The legislature also passed a bill for the
6 establishment of the commission and the status of
7 Iowans of Asian and specific Islander heritage,
8 within this State Department of Human Rights. That
9 was a major accomplishment, they've been working on
10 that for several years.

11 Another what we thought was an encouraging
12 piece of legislation was the Iowa version of the
13 Dream Act. It passed the House, it was very late
14 in the session, the senate didn't take it up, but
15 supporters feel like that is definitely going to
16 be, have a good chance to be passed in the next
17 session. The other information I have was pretty
18 much similar to Missouri so I'm going to pass this
19 on.

20 DR. MITCHELL: Thank you.

21 MS. CRAWFORD: Hi, my name is Kaye
22 Crawford, and I appreciate the opportunity to come
23 and talk to you all here, some of you whom I've met
24 in the past. Sometimes state agencies, you hear
25 from state agencies but you don't hear from locals,

1 so you're going to hear from a local agency.

2 Salina is in the center of Kansas and is
3 centrally located at the crossroads of I-70 and
4 135. It has a population of approximately 47,000.
5 The Salina Human Relations Commission was
6 established by ordinance in 1974, so it's been
7 around for a long time, and that was created from a
8 grassroots effort. People met in church basements
9 and in people's homes and that kind of thing and
10 got the ordinance going.

11 The department now can boast that it is a
12 stand-alone department and reports directly to the
13 city manager, so -- and in many areas that's not
14 true, if often times comes through the Human
15 Resources Department.

16 Our Equal Opportunity Ordinance has gone
17 through many amendments, but each one has given our
18 ordinance more power to do its work and to enforce
19 its law. The City of Salina Equal Opportunity
20 Affirmative Action Ordinance was patterned after
21 our State Human Rights Commission.

22 The Salina Commission covers the protected
23 classes of race, color, religion, sex, national
24 origin, ancestry, and for purposes of housing only,
25 the urban status or family status.

1 The Human Relations Commission Ordinance has
2 been determined substantially equivalent to the
3 Federal Fair Housing Law, and we do participate in
4 the Fair Housing Law under a memorandum agreement
5 with the Department of HUD.

6 I was also asked to submit just a little bit
7 about what our agency does, but, also, what some of
8 the State of Kansas civil rights issues are, as
9 well as recent civil rights legislation.

10 I thought I would discuss some of the
11 disability issues that came up this last session,
12 and also previous sessions, because Kansas does
13 have very strong disability rights advocacy group,
14 and they put up the big tent and they have a big
15 tent coalition and really have pushed through some
16 legislation.

17 The coverage of the Kansas Act, of course, and
18 I know Mr. Minner will talk about that a little bit
19 later, but it is greater than the Americans with
20 disability Act in that employers in the State of
21 Kansas who employ four or more are subject to the
22 Act, whereas, of course under Americans With
23 Disabilities Act it covers just 15.

24 The HAVA (phonetic) is a new bill, also that
25 was signed by Governor Sebelius that requires that

1 all voting places must be made accessible. It also
2 intends for Help America Vote Act. It's going to
3 involve operating voting machines, increasing poll
4 worker training and voter education efforts as well
5 as improving accessibility and usability by those
6 persons with disabilities.

7 Again, with regard to disability legislation,
8 the State of Kansas passed the visitability
9 legislation, it was 581406, and I think they passed
10 that in 2002. That legislation covers certain
11 accessibility standards for dwellings, certain
12 dwellings, and at a minimum, visitability -- and
13 you'll hear more and more about this, I'm sure, but
14 at minimum it enables people with limited mobility
15 to enter a home to visit, to use a bathroom, to
16 have a meal with a friend. It's just a very small
17 step forward for people with disabilities.

18 Racial profiling was, I think, covered just a
19 little bit already, but the State of Kansas
20 commissioned a study on racial profiling during the
21 2000 year, and that study and ensuing report in
22 2003, and I have a copy of that report in my office
23 if anyone would be interested in looking at that.

24 It reported that the State of Kansas is
25 experiencing racial profiling of black and Hispanic

1 motorists. That's not any real surprise to a lot
2 of us. In three of the seven jurisdictions,
3 there's evidence of profiling. Those jurisdictions
4 that participated in the study did so on a
5 voluntary basis.

6 Several of our Human Relations Commission,
7 commissioners on my Human Relation Commission and
8 myself met with the Kansas Highway Patrol on
9 November 21st, 2003 to form an advisory group for
10 the State of Kansas to dialogue on the issues of
11 racial profiling. And there has been one meeting
12 since that meeting, and I was not able to attend
13 that but some of my commissioners were. The
14 governor attended, also, that first meeting with
15 the Kansas Highway Patrol. Superintendent Sack
16 (phonetic) is the name of the new superintendent of
17 the Highway Patrol in Kansas, and he seems to be
18 very serious about the issue of racial profiling.

19 The State of Kansas has also grappled with some
20 other civil rights issues, as many other states
21 have. One was gay marriage. During this year's
22 legislative session, conservative leaders
23 resurrected a proposed amendment to the Kansas
24 constitution to ban gay marriage and other civil
25 union between couples, and the major proposed

1 amendment to the Kansas constitution won senate
2 approval but failed in the House, and it appears to
3 be dead at least for a while on gay marriage.

4 The immigrant issue, I think, has been pretty
5 well covered by Elias Garcia. It is interesting we
6 are experiencing a large group of folks who are
7 struggling. The limited English proficiency
8 population has grown tremendously in Kansas, as
9 well as all over the region. Limited English
10 proficiency, of course, refers to people age 5 and
11 above who report speaking English less than very
12 well, which is the standard.

13 In Kansas, according to the latest census, the
14 percentage of population with limited English
15 deficiency or LEP in 2000 was 3.9 percent, but what
16 is most interesting in that is that the change in
17 LEP population from 1990 to 2000 is 103.2 percent.
18 So that's pretty interesting. So we are attempting
19 to come to a lot of -- we're trying to come to
20 grips with a lot of issues. On my case load docket
21 in our agency, I have six complaints right now from
22 people who can speak no English at all. So if I
23 didn't have an interpreter on staff, we wouldn't be
24 able to deal with those complainants.

25 We did talk, I think, already a little bit, Mr.

1 Garcia talked about the out-of-state tuition.
2 Kansas did approve House bill 2145 this year, a
3 bill for immigrants to qualify for in-state
4 tuition, and we've talked about that already,
5 rather than having to pay the higher out-of-state
6 tuition. They must attend a Kansas high school
7 for, I think, it's three years and graduate, or
8 earn a GED. And they must also declare an intent
9 to apply for legal status. That bill, I believe,
10 has already been signed by Governor Sebelius.

11 And as Elias Garcia reported, they did try to
12 get through some licensing, and our region
13 Executive Council on Civil Rights, a four-state
14 region organization sent a letter of support and
15 supported that. However, that seems to have died,
16 also.

17 I hope part of what I've presented here to the
18 Advisory Commission gives you some food for thought
19 from a local standpoint. I do think that we need
20 to get our advocacy groups together and to really
21 push forward on civil rights. I see sort of a
22 developing on a lot of those rights. Thank you
23 very much for having me.

24 DR. MITCHELL: Thank you.

25 MS. RED DEER: Well good afternoon, or

1 evening. It's after 5:00. I'm going to be
2 merciful. I'm Sharon Red Deer, I'm with the
3 Nebraska Equal Opportunity Commission. I'm here
4 because my boss, Al Witicker (phonetic), is with
5 your boss.

6 Now, I don't know if you want the good news or
7 the bad news first. Everybody else had all this
8 cheery news and I don't. I'm going to give you the
9 good news first. The good news is, that we're
10 doing a lot in public education. We're trying to
11 educate those white folks out there.

12 Gretchen Uri (phonetic), I don't know if you
13 know Gretchen Uri or not, but she goes out at least
14 once a week to different organizations, businesses,
15 clubs, and does her presentations, and she's a
16 dynamo. We couldn't live without Gretchen.

17 We, too, participate in the HUD poster contest.
18 We got some great responses for that. We even have
19 some interesting rap videos on fair housing with
20 some interesting lyrics. One of them did win
21 though.

22 Let's see, what else are we doing? We're doing
23 the -- we had a -- no surprise but Ed did mention
24 that we had a wonderful first annual, hopefully,
25 immigration conference in Lincoln two weeks ago.

1 We made provisions to bring all of the Sudanese
2 from Grand Island to Lincoln and we had significant
3 numbers of the Hispanic community. We were able to
4 find the interpreters we needed and we had a whole
5 day's presentation on everyone's rights, civil
6 rights throughout the day from different
7 presenters. It went over well. Hopefully, we'll
8 have funding to do that again next year.

9 Let's see, I need my glasses on here. See, he
10 stole all my stuff. We have the same things.
11 Okay, well here's the bad news on the legislation.
12 Last year, someone, who's going to remain nameless,
13 I don't know who it was and it's not important now
14 -- well I do know who it is: Legislative Bill 805
15 was put before our legislature. It was narrowly
16 defeated. And I will read it to you, the pertinent
17 part to you, "After June 30th, 2004, no new charges
18 or complaints shall be filed with the Equal
19 Opportunity Commission. The Commission shall
20 continue with charges and complaints filed before
21 such date. All charges and complaints will be
22 heard of, disposed of by the Commission before
23 September 30th, 2004. Appeals in progress may be
24 continued to be heard. The Commission shall cease
25 to exist on September 30, 2004."

1 Narrowly defeated. Guess who came to our
2 rescue at the last minute? Baret Home (phonetic),
3 the big legal firm, the legal employment law firm.
4 Why? Because they don't want to clog up the title
5 three-fourths with those complaints. It was purely
6 practical on their part.

7 DR. MITCHELL: Self interest selfish
8 prevails.

9 MS. RED DEER: Absolutely. Can you
10 imagine the burden that would put on the small
11 businesses that responded? Can you imagine the
12 burden on the complainants?

13 We also have, right now, that has been
14 approved, unfortunately, it did pass, which is 635,
15 that's State Bill 635 that impacts our housing.
16 The first draft of the bill we got on an e-mail
17 campaign right away when we found out it was ready
18 for final reading. And what that bill did, is
19 require our investigators to provide work product
20 and all documents on housing investigations from
21 day one, from the day it was filed, not to wait
22 until after the determination.

23 I know, in 30 years in the justice system, that
24 I don't know of another investigatory agency, civil
25 or criminal, that's required to provide work

1 product to an opposing party. And now that has --
2 it has been reformed to only have to provide that
3 same information on cases that were tested by fair
4 housing centers, for instance, and that did pass.

5 We are in jeopardy of losing our substantial
6 equivalency from HUD over it. So, more bad news.
7 We have attorney general's opinion that our state
8 employment FEBA (phonetic) needs to be amended to
9 include -- their opinion is, and I don't agree with
10 it, I will say, that it doesn't include retaliation
11 for filing complaints with us or any other agency
12 on civil rights for future employers. So the
13 future employers can discriminate, if you file
14 complaints.

15 Also, the worst news this week -- I'm
16 Cassandra, the voice of doom -- the worst news this
17 week is, we found out that we not only don't get
18 paid to investigate any public accommodations cases
19 from anyone, we knew that, of course, but if we
20 lose a case, if our attorney general takes the case
21 and we lose it, we have to pay the legal fees of
22 the opposing party. That is correct. So, if we
23 take a PA case, for instance, let's pick on
24 Wal-Mart, since everybody does, we would have to
25 pay Wal-Mart's legal fees if we lose. The State of

1 Nebraska would. I almost bet a paycheck that
2 wasn't true, because I've never heard of that. I
3 don't know who abrogated our sovereign immunity on
4 this, but it's unbelievable.

5 But anyway, I'm going to move on to -- also,
6 one thing I would like to mention, that the EEOC,
7 we, too, have a great relationship with them. Ron
8 Hauser in Denver is a peach of a guy. He's always
9 there to help us with technical assistance, but we,
10 too, we have the same money as they do, everybody
11 gets the same \$500 to investigate a claim, a Title
12 7 claim, a claim that could take an investigator a
13 year, a solid year, we get \$500. That's it. And
14 you know, folks, an attorney on the respondent's
15 side of that, on that same year-long claim, is
16 probably looking at 50,000.

17 So, here's our wish list. We need an increase
18 in that \$500 stipend. We need some moneys, some
19 kind of money from state, federal, from grants,
20 some way to investigate and prosecute these PA
21 cases.

22 Public accommodations is the underpaying of
23 civil rights. Without that, you know, and I don't
24 want to be overly trial lawyer dramatic, but we're
25 going to have Ms. Parks to have to move to the back

1 of the bus again. Okay, we can't allow this to
2 continue.

3 At this point in time, when my people bring me
4 a PA case, I just look at them. What are we going
5 to do? We don't have the manpower to investigate
6 them, we don't get paid by any agency for these,
7 and on top of that if we do find reasonable cause,
8 our attorney general's not liable to want to take
9 this to an Article 3 court.

10 My wish list is, I wish for the EEOC to create
11 a partnership with the university like HUD has done
12 for their housing school so we can send our EEOC
13 investigators to investigatory school. That's a
14 doable thing. That's a very doable thing. I don't
15 know what the new situation was at Howard
16 University and HUD's going to be, but it sounds
17 great, because housing is kind of a mystery to some
18 investigators, and we need -- what they're doing is
19 a wonderful idea.

20 We need more hands-on advice from the Federal
21 Government. I'd like to see the Department of
22 Justice in our office occasionally. I'd like to
23 work in partnership with them. These cases that we
24 have to turn over to them, above age 70, for
25 instance, I would like to have some sort of a

1 passing the baton so we don't drop it. I'd like to
2 talk to them, myself, personally.

3 We'd like to have some legislative assistance.
4 We'd like to have somebody be a legislative liaison
5 for the NEOC so we don't get this legislation like
6 this going in under the radar.

7 I don't -- Mr. Witiker doesn't have time for
8 that, I don't have time, but we do need someone, we
9 need a friend out there somewhere. We need money
10 for legal research. Baret Home and the legal
11 firms, we're the little David fighting Goliath out
12 there. They've got tons of very, very good
13 employment law attorneys, and I've got
14 investigators that have had 15 hours of training.
15 And getting a subpoena on some of these things is
16 three months before the subpoena is even issued.
17 And I think that's all I have. Thank you.

18 DR. MITCHELL: Thank you very much.

19 MR. MINNER: My name is William Minner,
20 and I'm the Director for the Kansas Human Rights
21 Commission, and given the time constraints, I'm
22 going to jump father here. But I do want to thank
23 the Commission for this opportunity to appear
24 before you. I, again, applaud you. This is a
25 fightless kind of work, I recognize that. I've

1 been on the firing line for 32 long years with the
2 State Human Rights Commission so I can attest to
3 the merit of things that you have to deal with. I
4 have been there.

5 I started out as an investigator in the agency
6 back in 1972. I progressed to a manager, and then
7 I now occupy the top seat. So I've seen a lot of
8 things in our agency, but one thing that I'm very
9 proud of is that, in Kansas, we have been fortunate
10 to have both the executive and the legislative
11 branch of our state in support of our work. That
12 is very important. And that comes from democrats
13 and republicans and independents.

14 We reached sort of a crisis in 1995, and I
15 think that you need to hear this because I think
16 this further cemented our support. In '95 -- and
17 by the way, one of your commissioners is a former
18 commissioner, Theodore Tory (phonetic) is on your
19 commission, so he is one of our former
20 commissioners, and he can certainly attest some of
21 the things I'm going to tell you. But we had a
22 backlog, we have an open inventory of 2,760 some
23 complaints awaiting investigation in 1995. We had
24 complainants calling the legislature demanding to
25 know why was it taking so long to have their case

1 investigated. We had employers calling, demanding
2 to know why, what was taking so long. We have
3 attorneys on retainer, why are we having to pay,
4 what is wrong with the commission.

5 We had been sort of married to a concept that,
6 it was just a way we'd always done it. We did not
7 do anything differently. We would collect the
8 complaint. The complaint would basically sit and
9 collect dust while we would await to have an
10 investigator free to investigate it. We weren't
11 pro-active. We barely, just merely doing things
12 the way we had always done them. And I'm sure Al
13 Plummer, a former director can probably also speak
14 to this because I'm sure those are some of the
15 things that he had to confront, but we had to find
16 a different way to do things. So we had to face
17 some tough medicine in '95.

18 The legislature, basically, told us that, look,
19 if you don't find a better and more efficient way
20 to do your work, we're going to have to look at the
21 possibility of placing you into another state
22 agency, perhaps in the office of the attorney
23 general, perhaps in the Human Resources Department,
24 or maybe abolish you and just start over. So we
25 had to begin to do some things differently.

1 At that time the person who was basically in
2 charge and who really set the tone as to how we
3 were going to address these issues was a former
4 director at that time, Robert Lahey (phonetic).
5 Some of you may have known Mr. Lahey. Robert Lahey
6 is now retired.

7 But what Mr. Lahey did was to take a complete
8 look at our entire system. We had to come up with
9 different concepts and different ways to approach
10 investigations. Several things that were basically
11 looked at that had a real good focus was, how are
12 we dealing with the complaints that are coming in
13 initially? What are we taking? Are we
14 investigating or doing some kind of
15 preinvestigation for persons who come in? So
16 technically, the law states that any person who
17 feels aggrieved may file a complaint. But there
18 should be some kind of evaluation of what that
19 person tells you at the beginning.

20 For example, we had a lot of complaints in our
21 system that were complaints that were filed out of
22 time. People come in and said, look, I was
23 mistreated, I want to file a complaint. Well, we
24 take the information of those individuals would
25 state an allegation that they were discriminated

1 against. We asked no questions in terms of what
2 they were complaining about. But we were shocked
3 at a complaint that perhaps was of non merit from
4 the very beginning, so that case would basically
5 sit and collect dust, but it was a statistic, it
6 was a number.

7 So what we began doing was to talk to that
8 potential complainant. What happened? Tell us
9 about it. And in many instances we learned that,
10 well, in some cases, what we were dealing with were
11 individuals who in some cases had personality
12 differences. They really -- they were angry
13 because of certain things, a conflict with a
14 worker. They didn't get a particular kind of
15 satisfaction with what they were talking about in
16 terms of their issue.

17 In some cases the person would relate something
18 to us that had happened over a year ago. We have a
19 six month statute of limitation, so you wouldn't
20 have a basis for a complaint if you're talking
21 about something that happened a year ago, and
22 you're beyond the six months statute of limitation.
23 So we were able to prevent cases that would come
24 into the system that perhaps had no merit from the
25 very beginning.

1 Then we looked at, another concept was, those
2 cases that would appear to meet all of the
3 standards. They were timely. The person was able
4 to state a prima fascia case in which they would
5 allege, I'm of this race, I applied for a job, I
6 was qualified, I was rejected, and someone else was
7 hired. That case would meet the basic standards to
8 file a complaint. So what we were interested in
9 doing was to find a way to quickly get on that
10 complaint while it is fresh.

11 We developed a partnership with the Kansas
12 Legal Services to do mediation. A lot of you heard
13 of mediation, a new concept in which you bring the
14 parties together, and you have a discussion to try
15 to get that complaint resolved, which could result
16 in an individual receiving their job back, getting
17 a financial settlement, or getting some other
18 benefits in terms of that complaint. That
19 complaint is taken off the books at the early
20 stage. If it is not resolved, then we have some
21 basic information from that conference in terms of
22 the investigation itself.

23 Another thing that we were able to do was to
24 better train our investigators to be able to focus
25 more astutely to the allegation rather than to just

1 run all over the charts, but to focus on what
2 needed to be investigated in the allegation for a
3 complete and thorough investigation. So better
4 training, more focus on the allegations, which was
5 very helpful.

6 With that, we began to see a shift in the open
7 inventory of cases. As I sit here now, this past
8 April, we had an open inventory of 578 cases,
9 578 cases that are awaiting investigation, but that
10 is a tremendous shift from the larger backlog of
11 cases that we had in the early 90s. We were
12 basically hand-tied and sort of waited on a system
13 that was most unproductive. And because of this
14 new procedure, we have been applauded by the
15 legislature, we have been funded, even though we
16 know that there are various crises in funding in
17 various states, and Kansas does have some financial
18 concerns, but because of our work and the
19 relationship that we have established with both the
20 executive branch and the legislative branch, we are
21 highly respected. We are looked upon more
22 favorably than at the time when we had all of these
23 grievances, people complaining, calling the
24 legislature. So that's sort of, I would say that
25 we were given a new lease on life.

1 I want to just go over some numbers because I
2 think this is important. In the big scheme of
3 things, money talks, money talks. For example, in
4 fiscal year, as we move toward the more productive
5 years, in fiscal year '97, the Commission recovered
6 \$773,824 for complainants. Now that is a
7 combination of conciliations, proratable cause
8 rendered by the Commissioner, and also, with the
9 settlements that were obtained by the Kansas legal
10 services, which was the mediation project.

11 Let's move to fiscal year 1998. The Commission
12 recovered 1,542,101 for complainants. Fiscal year
13 '99, 620,103 for complainants. Fiscal year 2000,
14 1,059,066 for complainants. Fiscal year 2002,
15 \$712,437 for complainants.

16 Now, in this current fiscal year, we have a few
17 more months to go here. So far, as of April 30th,
18 the Commission has recovered \$1,333,380 for
19 complainants. This does not include restoration of
20 seniority, pay raises, and other kinds of benefits
21 that some of those conciliations required.

22 The leading basis for complaints in '03, and I
23 think it's pretty much true in this current fiscal
24 year, in Kansas, continues to be a complaint filed
25 on the basis of sex. Number two, the issue of

1 retaliation. Number three is race. The bulk of
2 the employment, the bulk of the complainant, it is
3 an employment case, and it is a complaint alleging
4 termination and differential treatment covering all
5 of those categories.

6 It is very seldom a complaint alleging a denial
7 of employment. And of course, housing, we also
8 cover housing. We get very few complaints in
9 housing discrimination. We also get complaints in
10 places of public accommodations but we are
11 fortunate that if we have such complaints, and we
12 have had them, we have been very successful in
13 getting the practice stopped and getting relief of
14 the complainant.

15 If we have a complaint alleging discrimination
16 in public accommodations, that complaint is treated
17 the same as we would treat a complaint in
18 employment. If it does not resolve, we go to an
19 administrative hearing in which the complainant and
20 the fees are covered by our budget.

21 The complainant would also have the option of
22 opting out of the administrative process and file
23 their case directly in district court. So we are
24 very fortunate, and I certainly -- I pain at what
25 I've heard about what our colleague in Nebraska is

1 having to confront, because to have something like
2 that, as far as I'm concerned, is a stain on the
3 required enforcement.

4 So I don't want to take up too much more of
5 your time, but I think I can stand here before you
6 and to report to this commission that we are very
7 pleased with what we're doing in Kansas in
8 enforcement. We have a committed executive branch,
9 a legislature has been very supportive of us.

10 My budget person and assistant director, Mr.
11 Halam (phonetic), I want to introduce Mr. Halam,
12 Mike Halam, the assistant director, and he has
13 informed me that, not to be too, too gleeful here.
14 He said that we may have some slight heartburn in
15 '05 but he thinks we'll be okay. We may have to
16 shift a couple of funds around, but he reported to
17 me that we're going to be okay but we may have to
18 be a little careful in terms of some of our
19 funding. But with that, given all things that we
20 have heard, I think we're in good hands. Thank you
21 very much.

22 DR. MITCHELL: Mr. Plummer, first
23 question.

24 MR. PLUMMER: Yes. To Steve and other
25 panel members, maybe the exception of Sharon. I

1 think you've already answered this question. One
2 of the concerns that we discussed in having this
3 session was at least a perception, anyway, that a
4 lot of folks have kind of taken their eyes off the
5 prize. In this case by reference to the prize is
6 state, federal and local civil rights agencies.

7 I know, for example, in the State of Missouri
8 this past session, there was a house bill
9 introduced, and I can't remember the number, I
10 think it was 785, you might know what I'm talking
11 about, a two liner that seemed to be fairly
12 innocent that I think had passed would have had a
13 negative impact on the authority of the Human
14 Rights Commission and Human Rights Act as well as
15 other entities, whatever that means, in the State
16 of Missouri, receiving the state funds, the bill
17 was designed to minimize their authority granted
18 under federal law, and out of it grew kind of a
19 question for me.

20 Are there -- have there been proposed
21 legislation, or even past legislation, that is
22 designed to minimize the authority of state and/or
23 local civil rights commissions?

24 I know Sharon kind of alluded to that, and I
25 was wondering, Steve, if anything happens, that

1 bill, if you're familiar with the one I'm talking
2 about, or anything else that may have popped up in
3 this legislative session?

4 MR. SKOLNICK: Our biggest legislative
5 issues, a lot of time, Al, what the problem tends
6 to be, and that specific legislation is not one we
7 track, but I've not heard that it passed either, is
8 allowing issues of substantial equivalence with our
9 federal sources. Because oft times the legislature
10 will pass -- will have proposed legislation,
11 sometimes it's on a track to be passed, and we're
12 just not part of the equation.

13 So we have situations in which bills might be
14 passed but really not thinking about civil rights
15 one way or the other, but could affect us. For
16 example, the way Missouri law works, there's been a
17 lot of talk about passing tort reform bills in
18 Missouri, and that's the term that those bills have
19 been given.

20 That attempt has been vetoed by the governor;
21 however, there is an open question under Missouri
22 law of whether that bill would cover civil rights
23 acts as tort cases. If they did, those bills put a
24 cap on civil rights. Now HUD has made very clear
25 to us that any cap on housing remedies, any fiscal

1 cap will put substantial equivalence in jeopardy.

2 I assure you when the teams were getting
3 together to put that together, they didn't really
4 think about that. And we had to, you know, engage
5 in appropriate lobbying efforts to let folks know,
6 we have a problem here and we don't think it is
7 your intention. So those are the kind of
8 situations we usually come across.

9 Sometimes, though, I think there might be a
10 real concerns that if legislation is really being
11 pushed and have strong backing, and we're
12 inadvertently, you know, in the path of that
13 legislation, it's going to effect us, I'm not sure
14 that we would always have the clout to say, hey,
15 don't forget about us, you know.

16 Like I say, well, you weren't really our
17 intention, but, sorry, if it's going to affect you
18 it's going to affect you. And that's something
19 that's a concern. I think the overall concern is
20 in these very tough budget times, beyond the
21 legislation, when you've got so many issues that
22 state legislatures are dealing with, Missouri is
23 basically dealing with issues of, are the children
24 of the State of Missouri going to be in classes
25 with 35 kids to one teacher? Are we going to have

1 health care for children? Are they going have
2 health insurance or any access to health care?
3 And those issues are so prevalent, you know.

4 People forget that receiving those services,
5 getting a good education, getting health care
6 happens within the context of civil rights. And
7 it's kind of hard when you're dealing with those
8 almost life or death issues to remind folks that,
9 even if we preserve those resources, if we don't
10 have civil rights agencies acting as a watchdog,
11 are the people who deserve those services, have a
12 right to them, really going to get those services?
13 And sometimes that message gets overlooked. Yeah,
14 there is a problem getting groups out there to
15 advocate. When we talk to people on the
16 grassroots, when we talk to the disenfranchised, we
17 know that the civil rights issue has not been
18 solved, but getting that into the public eye is
19 difficult.

20 MR. PLUMMER: And I think just as a kind
21 of a follow-up comment, the bill I'm referring to
22 is the, could have been, hopefully, detached, but I
23 think it was targeted to deal with issues related
24 to sexual orientation.

25 MR. SKOLNICK: No bills around sexual

1 orientation. That bill did not pass. I did track
2 the bill, and no, it did not pass. That was the
3 one with special rights bill. As far as, the last
4 thing I heard, unless something that I didn't hear
5 at the end of the session, no bills -- of course,
6 you do know, and I did not mention, that the
7 constitutional amendment bill did pass, in terms of
8 same sex marriage. And of course, I didn't mention
9 that but anyone who reads the paper knows about
10 that.

11 DR. THOMPSON: Mr. Chairman.

12 DR. MITCHELL: He's still answering the
13 first question.

14 MR. POTHAST: Ron Pothast from Iowa.

15 DR. MITCHELL: I have two people before
16 you.

17 MR. POTHAST: About a year ago there was
18 a, it's called a Legislative Oversight Committee
19 decided they were going to do a study of anything
20 that had to do with advocacy. And the idea was to
21 put all advocacy agencies together.

22 So, we were one of the agencies that was asked
23 to come before the committee. And our director was
24 able to get the point across that we are a law
25 enforcement agency much more than we are advocacy,

1 and so that sort of stopped that there.

2 But this year during the budget session, there
3 was an amendment that one of the legislators
4 proposed that would have taken some money, cut our
5 budget, which isn't real large anyway, and funded a
6 prisoner visit type study. And I don't know how
7 much it was.

8 One thing that kind of helped us is our new
9 director is a former member of the legislature. He
10 was in the House of Representatives, in the senate,
11 so some of the people he worked with are still
12 there and they alerted him to that and was able to
13 do something about that. But that was probably
14 because of his personal relationship. We could
15 have lost some more money.

16 MR. PLUMMER: Thanks.

17 MR. MINNER: And I'm not aware of any
18 legislation that would have been attempting in the
19 legislature, that would have affected my agency or
20 that would have been some sort of assault on us.
21 We've been very fortunate. And as far as advocacy,
22 I, too, would agree that there appears to be some
23 kind of a, I don't know if it's burnout or just
24 where people are perhaps not as engaged as they
25 were at a given time. And it certainly is a

1 concern, because in this kind of work, you cannot
2 predict what might suddenly come on the horizon,
3 and if you don't have a corp of constituents or
4 someone that you can quickly gather, the storm will
5 have hit and gone on before you can even find
6 someone. And that's a troubling aspect, but I
7 think that with what battles I think that we have
8 had to fight and the daily struggle with families
9 just really trying to hang on to their dear lives
10 to make end meet, I certainly can sympathize, and
11 I'm not going to hold that against them.

12 DR. MITCHELL: Next question.

13 MR. RODGERS: Sharon, this to you.

14 DR. MITCHELL: Name?

15 MR. RODGERS: Chris Rodgers, Omaha,
16 Nebraska.

17 This is the first time -- and everything you
18 said I take it just went through this year?

19 MS. RED DEER: 803 was killed in the 98
20 legislature.

21 MR. RODGERS: 98?

22 MS. RED DEER: The 98, last year.

23 MR. RODGERS: Okay.

24 MS. RED DEER: So we sweated it right up
25 until December.

1 MR. RODGERS: That's the one that was the
2 whole elimination?

3 MS. RED DEER: Correct.

4 MR. RODGERS: And I guess from my
5 understanding of an inside story on that, the
6 legislature, it was used -- the department was used
7 as a ploy to make the governor raise taxes. He
8 pleaded he was not going to raise taxes. This is
9 my understanding of the story. And the bill was
10 introduced to gen up enough ground swell to make
11 people get up off their seat and come up there and
12 do something about it.

13 Eventually some things were overridden, and I
14 think that might have been one of the folks because
15 they got pulled. But from the other stuff you
16 said, when that attack went on last year, as I
17 understand the issue with the money, I guess I
18 don't understand how somebody wasn't watching
19 everything that went through there to let that go
20 after what happened last year. A legislative aid
21 or anything. And I got to some degree, and I don't
22 know the side of the story and I don't want to say,
23 but, anyway, it comes off most of the time, but the
24 director is watching. And I don't know how Al let
25 it get through or not, but I guess that's my

1 frustration. After that attack happened last year,
2 I would think somebody would be watching.

3 DR. MITCHELL: Your question?

4 MR. RODGERS: Why wasn't someone -- who
5 was -- why wasn't somebody watching?

6 MS. RED DEER: Well, you know, I want to
7 keep my job, so, I -- okay, the truth of this is,
8 truthfully, I think, now I'm not -- I'm director of
9 investigations, so I'm going to tell you what I
10 know about this.

11 I understand we're supposed to have a liaison,
12 a legislative liaison in Lincoln that does our bill
13 tracking for us. And that person dropped the ball.
14 We found out about 6:25 Thursday before the final
15 reading on a Friday, if you can believe that. And
16 Gretchen Uri and some other people got right on
17 e-mail and started making phone calls and said,
18 hey, this needs some reconsideration. And as a
19 result of our last-minute intervention, it got
20 tabled for revision but it also, the Nebraska
21 relators board, which is the one that was
22 sponsoring this bill, is hugely angry at us and has
23 had some confrontations at the commission meetings
24 over that. And I'm not telling any tales out of
25 school because commission meetings are open to the

1 public. So, it's just -- now, there's like all
2 disasters, there's a chain of events rather than
3 just one person dropping the ball. But, you know,
4 it's a tragedy.

5 Hopefully, the HUD attorneys have it now. And
6 hopefully, they're going to see that, possibly, it
7 won't -- hopefully, you know, we're keeping our
8 fingers crossed. Otherwise we're in trouble.
9 Because HUD, as everybody here knows, pays much
10 more than \$500 for investigations, that we rely on,
11 and we do take a lot of housing cases. And we're
12 going take more with the immigrant populations that
13 this is revolving around here.

14 That's why I'm so concerned for the PA
15 situation, too, because the Sudanese are already
16 having trouble getting service in restaurants and
17 getting taxi rides and getting everything. And I
18 guess if I was going to use Ms. Parks, I should
19 have said Ms. Parks will move to the back of the
20 bus, but she'll be Sudanese, perhaps. And that's
21 why we're going to need some money. We need some
22 support.

23 DR. MITCHELL: Ms. Perry and then Doctor
24 Thompson.

25 MS. PERRY: My name is Mona Perry, I want

1 to talk to the person from the State of Missouri.
2 Who receives this cultural sensitivity training,
3 and how often do you do this?

4 MR. SKOLNICK: Well, my breakdown doesn't
5 go further than, you know, I don't have it broken
6 down. On this particular sheet I have between
7 schools, government and business, but we have those
8 three groups, and it will be available -- and I
9 know we've done training with all three of those
10 broad categories of entities. They receive it when
11 they ask for it. It's a service that we provide.
12 If any entity says to us, we would like this
13 training, then we make arrangements to provide it.

14 MS. PERRY: But they have to ask you for
15 it?

16 MR. SKOLNICK: They would ask us for it.
17 Well the only exception to that would be that when
18 we create remedies, especially in our processes of
19 early resolution, which is a process before we have
20 an investigation where there's a complaint to
21 settle that complaint, or a settlement during an
22 investigation, a settlement during conciliation,
23 after we've found probable cause for
24 discrimination, or sometimes as an ordered remedy
25 after a hearing, training can be part of that

1 remedy. And in that particular case, the people
2 would receive it. Anything but a commission order,
3 they would voluntarily say, like, the complainant,
4 we're looking -- when we're working with them and
5 saying, what would it take for you to settle your
6 complaint of discrimination?

7 Let's say that complaint is national origin
8 discrimination. We would bring up some
9 possibilities for them, we say, one of the things
10 that we know is a potential remedy besides a
11 monetary one that other people have used is ask
12 that these people receive cultural sensitivity
13 training. So that would be another context in
14 which the person might just not request it but it
15 might be suggested.

16 DR. MITCHELL: Doctor Thompson.

17 DR. THOMPSON: Yes, thank you.

18 I was wondering if any of your agencies -- I'm
19 asking all of you -- run into this issue that comes
20 up from time to time regarding English only,
21 because of the immigrants that come into our
22 states, and I was just wondering if that has
23 resurfaced?

24 MR. MINNER: There have been several
25 attempts in the Kansas legislature to introduce

1 such a requirement, but in each instance it has
2 failed.

3 MR. POTHAST: In Iowa, it was about five,
4 six years ago, the first attempt was really a very
5 strongly worded English only bill. And we just
6 happened to be in an appropriation subcommittee
7 meeting, and one of the representatives asked us
8 for an opinion on that bill. So we didn't have to
9 answer right then but we were able to send an
10 answer to the committee. And our opinion was as to
11 what it really was, that it was really
12 discriminatory, we thought.

13 It was kind of interesting because the
14 governor's office looked at it and didn't notice
15 that, so we called it to their attention. And we
16 were kind of, I would go to a meeting every week,
17 and usually there would be kind of a routine for
18 that meeting, but that particular one, the next
19 one, I was the first person called on, said why do
20 you think that? So we explained that.

21 Later on they did eventually pass an English
22 only bill that was quite a bit watered down. We
23 weren't able to get that completely stopped. That
24 was done about a year or two ago.

25 MS. RED DEER: Ed Lehy would have been

1 the person to ask more about that because that's
2 his area of expertise, but I will -- my answer to
3 that is that we take charges of discrimination
4 based on national origin. Should that issue come
5 up in the workplace under a Title 7, unless it's a
6 bonafied occupational requirement. And ironically,
7 we had a case not too long ago, the parties will
8 remain unnamed, of course, but they hired a person
9 because they spoke Spanish and then gave them a
10 corrective interview for speaking Spanish when they
11 weren't interpreting. So, also, I would remind
12 everyone that Title 6, I don't know if anybody here
13 knows Title 6? Okay. Well, that answers a lot of
14 that question, doesn't it, so...

15 DR. MITCHELL: Mr. Jin has a question to
16 ask.

17 MR. JIN: Thank you. Les Jin, J-i-n.

18 I have a question for the panel but I'm sure
19 Mr. Skolnik will want to take a shot at this.

20 My understanding of the Equal Fund Opportunity
21 Commission is either thinking about or in the
22 process of closing some of its district offices,
23 and I don't think it's closing any regional
24 offices, but I'm just wondering whether any such --
25 how such closures would affect the relationship

1 that each of your organizations have with the EEOC,
2 either, generally, the quality of relationship, or
3 the extent that you have inter-agency agreements
4 with them, how it effects that. And I guess what
5 I'd like particular comment on is in terms of the
6 number of cases you might have and things like
7 that.

8 MR. SKOLNICK: Okay. Now that is, you
9 know, we had heard on our side of it that they
10 haven't been able to replace staff. We know that
11 they're trying to go to some new expedited
12 procedures because they are under such strain.
13 You've given me new information that I personally
14 have not been aware of in terms of closing offices.

15 MR. JIN: I just want to make clear that
16 I heard.

17 MR. SKOLNICK: Heard, yes, okay. But
18 even that hearing is new information for me,
19 personally, and certainly concern. You know, EEOC,
20 in terms of their relationship with us, and I don't
21 have that exact figure off the top of my head, but
22 in terms of our cooperative relationship, we're
23 probably doing for them somewhere -- and this is
24 very approximate, I'm going to say about 16 to
25 1700 -- I'll say about 1600 cases a year. Well,

1 actually, in terms of the formal quality of
2 relationship I'm now thinking about the numbers we
3 receive contract dollars for, it's a little over
4 1300 cases, the last time I looked, and it's been
5 awhile, I would have to have these statistics
6 pulled, they probably processed 3000 cases, if I
7 remember correctly. I think it's that high, but
8 again, I hope I'm right, so this is not a statistic
9 you can hold me to.

10 If the EEOC is not able to continue to work on
11 their side, and that work goes back to the State of
12 Missouri, given all of the strains we're already
13 experiencing in terms of budgetary issues, that
14 would really be devastating. And while I certainly
15 agree, there are legitimate ways you can work
16 smarter, faster, and there are legitimate things
17 you can do to expedite when appropriate, there are
18 ultimately diminishing returns.

19 I feel we run a very efficient operation at
20 this point, and for us to come up with a procedure
21 with current staffing to take on even double the
22 current case load, it would take a lot less than
23 that, I don't know what the percentage, another 25
24 percent, I can't give you an exact, and to still do
25 credible work, to be able to feel proud of that

1 work product that we do and say we have done an
2 active and thorough investigation. There's going
3 to be a point where we're not going to be able to
4 make that statements. So that is a concern.

5 In terms of their organization and its
6 physically closing offices in terms of where their
7 office is, geographically, is not the concern.
8 Having their staff that can continue to have the
9 time to interact with us, provide mutual
10 interaction, technical assistance, work on outreach
11 projects together, that's what's critical. And I
12 already have a sense, and I'm not -- I do some
13 liaison with them, but our Director of
14 Investigations is our primary lead on EEOC, and I'm
15 already hearing from him and already getting a
16 sense that these are staff people under a
17 tremendous strain, to try to do their job with
18 who's left.

19 We've had a very similar thing with the state
20 that's been with the commission. Every time
21 somebody leaves, we just smile and say, how are we
22 going to do the work that they used to do. And the
23 EEOC seems to be experiencing that. Somebody
24 leaves, there's nobody to replace them, how do we
25 redivide the work? Again, diminishing returns.

1 So it is a concern. Kaye kind of indicated,
2 she had already heard out of the grapevine, I had
3 not till now, but that is a concern.

4 MS. RED DEER: I've had feelings like
5 that, also. I think that we need the technical
6 assistance. The physical location of offices is
7 not as important except that they can't get to us
8 as readily. And we need some hands-on visits.
9 I've been with the NEOC for almost five months and
10 I still physically haven't seen anybody from EEOC,
11 so, and I need them in there. When we get cutting
12 edge stuff on seminal cases, I need them in the
13 office there to guide us through these things,
14 because they're the ones that are going to
15 ultimately determine everything, so...

16 DR. MITCHELL: Are there other questions?
17 Sorry, you need to answer.

18 MR. POTHAST: Ron Pothast from Iowa.
19 We're in a different regions, in Iowa, than the
20 other states here, and we had heard something about
21 this. We're with the Milwaukee office, and we
22 definitely heard something about this, and we have
23 the same effects that the other agencies have.

24 MR. MINNER: I had not heard this but I
25 would also amplify that we wouldn't be too much

1 concerned about the possibility of certain closures
2 and mergers, but we would still want to have the
3 technical assistance and the contact with the EEOC,
4 that they are very helpful. We don't have any
5 complaints with that agency. They truly are our
6 big brother, big sister.

7 Lynn Bruner (phonetic), the area director is a
8 marvelous, dedicated foot soldier, and we love her.
9 She does an excellent job, and we would certainly
10 want to do all that we can in our individual agency
11 capacity to see to it that they are adequately
12 funded. That's very important. And I didn't say
13 this earlier, but I think it's time for them to
14 have an increase in payment to locals for their
15 work. I believe, Mr. Plumber, we were talking
16 about this earlier. We haven't had an increase
17 since maybe in 30 years, maybe longer.

18 UNIDENTIFIED PERSON: Probably ten to 15.

19 DR. MITCHELL: Seems like 30.

20 MR. SKOLNICK: And I would just like to
21 say, even though the question was answered, because
22 I would like to go on the record with this.. When
23 you talk about the relationship with federal and
24 state entities, and since the 80s, wanting to
25 develop that into a cooperative relationship, I

1 want to go on record that no one could have, in my
2 experience, no one in my experience has done a
3 better job than Lynn Bruner to really have
4 effective partnership with the state agencies, to
5 really make us feel like it's not -- if it's big
6 brother or big sister, it's in a good sense, that
7 we really feel that we have a good partnership, and
8 it's a give and take both ways, and I think her
9 leadership in this region has really been critical
10 to that effort, and I would just like to go on
11 record and say that.

12 DR. MITCHELL: Very good, thank you. One
13 more question.

14 MR. NULTON: Bill Nulton, Kansas.

15 To the extent that any of you have experienced
16 over the last two fiscal years a reduction in
17 funding, how many of you have? Could I see hands
18 on that?

19 (Indicating)

20
21 MR. NULTON: Okay. Follow-up question.

22 Is that reduction in funding just because,
23 generally, your agencies within the state have
24 suffered a reduction in general because of economic
25 slow-down, tax returns, whatever, or is it in any

1 case attributable to a benevolent attitude towards
2 your agency on the part of the legislature?

3 Anybody feel that there's benevolence?

4 MS. RED DEER: Yes. Okay. And I'm going
5 to qualify that by saying, sure, everybody has
6 budget concerns and money's always an issue. No
7 matter how prosperous we are in this country,
8 money's always an issue. But I can tell you from
9 my experience in the upper Midwest that, truly, the
10 dominant culture does not believe there's
11 discrimination that exists today. Even Gretchen
12 Uri will tell you, when she goes out and does
13 pro-active education, people are shocked, adult
14 people are shocked that there's still housing
15 discrimination, quote, "They don't still do that,
16 do they?"

17 So people really, truly believe that there's
18 equal opportunity out there. It's just like
19 Doctor Yetman, when he said, yes, it's very subtle,
20 but it's still out there and it's still
21 debilitating. But it's not overt. And because
22 they don't see the overversion every day like they did
23 in the 50s, they believe it's gone and we're not
24 necessary. And in fact, we've been called wolves
25 lately by several big, large business

1 organizations. Oh, you work for the wolves.
2 You're the wolf pack. You're always on us. You're
3 hurting our organization. You cause us pain and
4 embarrassment and time and money and lawyer fees,
5 unnecessarily. So, yes, there is some benevolence,
6 yes.

7 MR. NULTON: Now, and this would -- I'd
8 ask this of each of you. If you have the figures
9 you could provide them now or mail them to our very
10 efficient --

11 DR. MITCHELL: Mail them.

12 MR. NULTON: -- regional office?
13 Specifically, I would like this data: The
14 complaint for the last two completed fiscal years,
15 the complaints filed. You don't need to give me a
16 breakdown, just the total number of complaints
17 filed. And then for the same last two completed
18 fiscal years, the cases pending at year end.

19 MR. MINNER: We'll do that.

20 DR. MITCHELL: Okay. I want to thank the
21 panel very much, especially Ms. Red Deer who waited
22 all day to be on the last, the panel, since
23 yesterday, so I appreciate your patience.

24 MS. RED DEER: You're quite welcome.

25 DR. MITCHELL: We appreciate the panel

1 very much. So thank you very much.

2 Well since we do not have anyone that wants to
3 testify, we'll move right to the adjournment, and
4 just a few statements on adjournment, because I
5 have to leave pretty fast. And the closing remarks
6 is that, we've had a full day. We have lots of
7 good testimony, information that we sought. The
8 panel asked good questions, and we were provided
9 answers.

10 All this information will be assembled, first
11 the transcript that's provided, and then a report
12 will come from this. So, I think we have enough
13 information for a very excellent report. It's
14 probably more than I think the staff thought we
15 would get. And so I'll give everybody a chance to
16 make one final comment. You got 30 seconds.

17 Doctor Thompson.

18 DR. THOMPSON: In the meantime, could we
19 forward recommendations that we've already gleaned
20 from the information that they have given us? Can
21 we go ahead and just forward that so the -- the
22 regional office can keep it on file when it's time
23 to present the report?

24 DR. MITCHELL: Yes. Let me follow with
25 that statement. I think each of us on the panel,

1 if we have some recommendations that we want to
2 make from anything we've heard today, please send
3 those to the staff, and they will keep them on
4 file. So I think it's very important, a very good
5 point. Yes.

6 UNIDENTIFIED PERSON: I think we should
7 express a thank you to our transcriber or reporter
8 who's tirelessly pounding away on that machine.

9 DR. MITCHELL: As we close up, let me
10 make another comment. I would like to thank the
11 panel, because I think most of you have done a very
12 excellent job in terms of following and being
13 present. Even though it might have been tough for
14 some of you to stay here that long, this is not
15 unusual, I'll tell you that, for most hearings.

16 We try to be sure that those we invite to come
17 have an opportunity to tell us what they want to
18 tell us. Even though we put time constraints on
19 them, it's very difficult to not let them tell us
20 what they want to tell us. And it's also important
21 that the panel members ask their questions. So I
22 want to give you an applause from me to you for
23 your patience and your work, so it's been a very
24 good panel, and it's been something that I think
25 we'll all remember for a long time.

1 MR. PLUMMER: While we're doing thanks,
2 Doctor Mitchell, you're getting ready to raise the
3 gavel, lets' not forget our staff.

4 DR. MITCHELL: Absolutely.

5 MR. PLUMMER: That includes the staff
6 director, who endured the entire process with us.
7 That's commendable.

8 DR. MITCHELL: Thank you. On that basis,
9 I say we're adjourned.

10

11 (Proceedings concluded at 6:00 p.m.)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

STATE OF MISSOURI)

.)

COUNTY OF CLINTON)

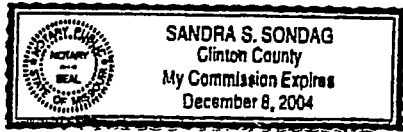
I, the undersigned Certified Court Reporter and Notary Public of the State of Missouri, do hereby certify that the foregoing proceedings was taken before me and thereafter transcribed into computer-aided transcription under my direction and supervision; and I hereby certify that the foregoing transcript of proceedings is a full, true and correct transcript of my shorthand notes.

I further certify I am neither counsel nor related to any party to said action, nor otherwise interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereto set my hand and affixed my seal this 16 Day of June, 2004.

COSTS: 1357.35

Paid by Midwest Civil Rights



Sandra S. Sondag
SANDRA S. SONDAG, CCR