U.S. COMMISSION ON CIVIL RIGHTS

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NATIONAL CONFERENCE ON CIVIL RIGHTS

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A NEW ERA: DEFINING CIVIL RIGHTS
IN THE 21ST CENTURY

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TUESDAY, SEPTEMBER 14, 2010

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The conference was held in the Ballroom of the National Press Club at 529 14th Street, Northwest, Washington, D.C., at 8:45 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman

TODD F. GAZIANO, Commissioner

GAIL L. HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

ASHLEY L. TAYLOR, JR., Commissioner

MARTIN DANNENFELSER, Staff Director

ALSO PRESENT:

WILLIAM RASPBERRY, Keynote Speaker
DAVID ARMOR
MINDY BARRY
ROY L. BROOKS
ROGER CLEGG
VERNARD GANT
HARRY HOLZER
KAY HYMOWITZ
CLARENCE B. JONES
KENNETH MARCUS
HEATHER MacDONALD
ROBERT P. MOSES
JENNIFER NILES
JAMES T. PATTERSON
RUSSELL G. REDENBAUGH
WILLIAM STEPHNEY
CAROL SWAIN
ROLAND WARREN
AMY WAX
ROBERT L. WOODSON, SR.

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel, OGC
TERESA BROOKS
MARGARET BUTLER
CHRISTOPHER BYRNES
DEMITRIA DEAS
LILLIAN DUNLAP
PAMELA A. DUNSTON, Chief, ASCD
LATRICE FOSHEE
LENORE OSTROWSKY
JOHN RATCLIFFE, Chief, Budget and Finance
MICHELLE ROYSTER
EILEEN RUDERT
KIMBERLY TOLHURST
AUDREY WRIGHT
MICHELE YORKMAN RAMEY

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTEN
TIM FAY
DOMINIQUE LUDVIGSON
JOHN MARTIN
ALISON SCHMAUCH
KIMBERLY SCHULD

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

(8:45 a.m.)

MS. TOLHURST: Thank you all for coming, and welcome to the Commission's National Conference. We hope it will be an important and vibrant discussion, and we are very glad that you are all here.

My name is Kim Tolhurst. I'm a Commission employee. I'm going to go over a couple of housekeeping things for you before we get started.

Today's conference will be comprised of five panels. Each will be moderated by one of our Commissioners. During the last portion of each panel, we welcome audience participation, and we hope that you will have some interesting questions to pose. If you do have a question, we have two microphones, here and here. We welcome you to line up with your questions, and, if you do have a question, please identify yourself by name and organization before you ask your question.

As you can see on your agenda, we have a break after every panel. Timing is very tight, and I know they are short breaks, but we have a jam-packed day and don't want you to miss any of the content. So please do your best to adhere to the time limits of

those breaks.

The restrooms -- if you go right out the doors here, head straight down into the paneled area, there are a set of restrooms to your right. If you head straight down the hall and to your left, there will be another set of restrooms in the kind of elevator bank area.

If I could ask you all to silence your cell phones at this time, make sure those are turned off.

And at this point, I will introduce our Chairman, Gerald Reynolds, who will give some introductory remarks.

I. WELCOME

CHAIRMAN REYNOLDS: Okay. Good morning. Welcome to the U.S. Commission on Civil Rights National Conference. We are honored to have you join us today for the start of a national conversation on formulating a new civil rights agenda for the 21st century.

This event is the product of many months of planning and discussions, and we are indebted to those who took the time to help us refine our concepts and thinking on the critical matters that we will take up today.

Decades since the passage of landmark civil rights legislation and the dismantling of Jim Crow, many believe that civil rights remains the great unfinished business of the nation. While the early civil rights movement benefitted from a moral consensus uniting its proponents around the goal of extending liberty to an oppressed people, there is no consensus today regarding the means, methods, or goals of civil rights for the 21st century.

The civil rights landscape, especially as it relates to race, has arguably become more complicated. That complication has made honest dialogue about pressing issues affecting disadvantaged communities treacherous ground upon which even angels fear to tread.

Of course, there are other pressing civil rights issues aside from race that are worthy of their own day-long conference. But race tends to be foundational.

As one of our panelists, Roy Brooks, has so cogently noted, "Within the civil rights cosmos, concerns about racial disadvantage formed the primary galaxy, and within that racial galaxy black and white relations form the primary constellation."

They are indeed foundational, and they

have influenced the way that we perceive and approach solutions to other civil rights challenges. And yet the black experience is also unique, further warranting its separate treatment here today.

How did we arrive here? With the passage of the 13th Amendment, the United States outlawed slavery and, theoretically, involuntary servitude. While this amendment stands as a momentous milestone of our nation's effort to extend liberty to blacks, the 13th Amendment and the other reconstruction amendments did not dismantle the oppressive racial caste system that placed severe limits on the aspirations, hopes, and dreams of newly-freed slaves, their descendants, and those freed prior to the Emancipation Proclamation and the 13th Amendment.

Over the years, the struggle against American -- against the American racial caste system has taken many forms. It includes the Quaker who put her family at risk by hiding runaway slaves. At one point in our history, civil rights leaders concentrated their efforts on securing anti-lynching legislation.

Early in his career, Justice Thurgood Marshall sued states to ensure that public funds were equally distributed under a separate but equal regime.

Later on in his distinguished career he used his legal skills to tear down the doctrine of separate but equal.

By using the right tactics during different periods of the struggle for equality and liberty, we have more or less won the battle for formal equality before the law.

Let me unpack that statement, so that we understand each other. We have dismantled the racial caste system that existed in our not-too-distant past, and, through civil rights legislation at various levels of government, we have created mechanisms that allow the aggrieved to seek redress.

It is a huge accomplishment. It's not perfect, but nothing is. But looking at where we started, and where we are today, we have made a great deal of progress.

Now, during the 21st century, we must maintain our vigilance. We must ensure that all Americans enjoy formal equality before the law. While we have dismantled America's racial caste system, some Americans' ability to pursue their dreams have been hobbled due to factors like the want of a decent education, or the inability to speak English or relate to -- or relate in terms of language and expectations

at the workplace.

Today I would like to suggest that we create public policies that aim to increase the productive capacity of disadvantaged Americans. Our attempts to lend a helping hand to these individuals have not always focused on increasing their productive capacities.

Many times these attempts have resulted in unintended consequences. In some cases, they have perpetuated cycles of dependency premised on the notion that the remedy can only come from without.

In order to create sound public policies that improve the productive capacities of disadvantaged Americans, we must improve the quality of public debate, because there is a nexus between the quality of debate and our public policies.

Because of the invective, cheap shots, and lack of respect we have shown each other while discussing civil rights in the public square, the honest, interesting, and promising discussions of such issues rarely take place in that realm. These conversations have been driven underground.

We have these discussions in our backyards, our churches, our cubicles, and our favorite watering holes, but only with people with

whom we trust. But those private conversations are limited in their ability to obtain the kind of broader consensus necessary to influence public policies.

We have to bring these conversations back into the public square. We have to create an environment where people feel comfortable expressing their views. We must create the presumption that the people who we are debating with will give us the benefit of the doubt.

Okay. One of our goals here today is to demonstrate to the nation that it is possible for men and women to embrace different ideologies and first principles, to have an open, honest discussion in the public square on difficult civil rights challenges, in an environment of trust and mutual respect.

Some of you will ask, why is this important? The consequences of inaction can no longer be ignored. In 1965, a political appointee at the Department of Labor, the late Senator Patrick Moynihan, and his team, issued a government report that discussed the deteriorating condition of some black families.

In the report, Moynihan used blunt language in his attempt to rally support for public policies that would stem the social problems that were

enveloping many black communities, using tough, unvarnished language that had been used in the past by black scholars such as W.E.B. DuBois, E. Franklin Frazier, and Kenneth Caulk. Moynihan stated that at the heart of the deterioration of the fabric of the Negro community is the deterioration of the Negro family.

The reaction to the Moynihan report was fierce and, for a prolonged period, unrelenting. The invective hurled at Moynihan in the public square distorted the discussion of the state of black families for decades.

During this fallow period where discussions of out-of-wedlock births were carefully scripted and not securely tethered to reality, the problems identified by Moynihan festered and grew in size. This unwillingness to engage in constructive dialogue has had a crippling -- has had crippling effects.

The social science literature shows that fatherlessness has adverse consequences for educational attainment, which in turn impacts disadvantaged individuals' prospects in the job market. We know this, but we don't have frank conversations about this. We need to change this.

Now, these issues are true regardless of skin color, but the effects are more pronounced in black communities, especially poor black communities. The current civil rights model has been unable to effectively address this downward spiral. Such realizations are troubling.

They also make for some uncomfortable conversations. Addressing them constructively and prompting others to do so in the spirit of cooperation, without blame, it's difficult, but we have to learn how to do it if we are going to take the next step forward.

Now, to help us with this grand project, I would like to talk about our keynote speaker. Throughout his distinguished career and nearly four-decades-long career as a journalist, our keynote speaker, retired Washington Post columnist William Raspberry, has tackled issues related to the intersection of race, family structure, and opportunity, with a responsible voice.

He has written eloquently about both the nation's moral obligation to address its racial divisions, and about the steps that blacks can take to remedy many of the problems that so often beset our poor black communities.

Mr. Raspberry is known for his independence of mind and his insistence on speaking the truth as he sees it. His opinions have served as a springboard for debates in news rooms and classrooms, in the White House, and in Congress.

For his enlightened commentary on social and political issues, Mr. Raspberry has received honorary degrees from 15 educational institutions, and in 1994 was awarded the Pulitzer Prize for distinguished commentary.

It has been said of Mr. Raspberry that reading his column is like having a conversation with an intelligent friend.

The son of Okolona, Mississippi, schoolteachers who lived through -- well, the son of Okolona, Mississippi schoolteachers, lived through segregation, beginning his journalistic career with the Indianapolis Recorder upon graduating college. He spent four years with the paper before joining the U.S. Army.

Following an honorable discharge, Mr. Raspberry went to work for The Washington Post in 1962 as a teletype operator, soon being promoted to reporter. In 1966, he began his own column, which at its peak of syndication appeared in 225 newspapers

across the country.

The column often addressed the latest ideas and proposed answers to social dilemmas. He has said, "I don't enjoy celebrating problems. I talk about problems with a view of inching towards solutions."

He retired from The Post, and from his Knight Chair on communications and journalism at Duke University where he taught for 13 years, so he could devote more time to Baby Steps, a parent training and empowerment program he created in his hometown of Okolona.

He described Baby Steps as "my attempt to help give another generation of young people the thing that worked so well for me -- a belief in the magic of education."

Following Mr. Raspberry's talk, we will convene in five panels focused on whether and how civil rights tactics must evolve to effectively address the challenges that afflict disadvantaged communities.

Our first panel will assess the nation's legal and social progress in reducing discriminatory conduct and attitudes, while exploring the historical legacies of slavery and segregation, focusing on the

distorting impact that these institutions -- of these institutions on the outlook and aspirations of black individuals, families, and communities.

Our second panel will consider the role of family structure in perpetuating racial disparities across various indicators of social and economic success.

The third panel will address whether the traditional tools used to combat legal discrimination are sufficient to address contemporary problems or whether new tactics are warranted.

The fourth panel will stress the critical role of education in combating negative social outcomes and highlight promising interventions that lead to better academic outcomes within communities most at risk.

Our final panel is introspective, focusing on how the mandate, structure, and function of the Commission on Civil Rights must change to facilitate a new direction in civil rights.

Without further ado, please join me in welcoming Mr. William Raspberry.

(Applause)

II. KEYNOTE ADDRESS

MR. RASPBERRY: Actually, Gerry pretty

much made my speech. But I want to throw a couple of things out that maybe can help us get started today.

Maybe a few requests I could make of this gathering and the panels that follow. The first is that we all try as hard as we can to make this a day of discussion, not merely a resumption of ancient debates, that we resist the temptation to score points off one another. It is great fun, and I do it, but there come times when scoring points is less important than trying to figure out what we need to do.

And third -- and I hope, Gerry, you agree with this -- that we consider our analyses, our comments, and our proposals from the point of view of what is best for the coming generation of America's disadvantaged minorities. What is going to work best for them, for our kids?

I make these requests not to insult or offend you, but because I have become painfully aware of a dismaying trend that has overtaken all our important discussions, from climate change to health care to, of course, racial equity.

And that is the notion that it is enough to separate people into groups, us against them, which means that, instead of trying to solve our mutual problems, we concentrate on defeating those we

designate as "them," which leads us to exaggerate our differences as a substitute for thought and to minimize our agreements as of no consequence.

Take our subject today. Hardly anyone believes that America has reached some post-racial nirvana, where racism has been exorcised both from our institutions and from the hearts of individuals.

We know it's still there, and almost everyone would agree that we do -- that what we do as individual minority members, and what we encourage our children to do, matters a great deal.

So my humble, or perhaps naive, plea this morning is that -- it's not that you change your minds about what you believe, but that for the next few hours you accept at least the theoretical possibility that those who disagree with you are not, on that account, stupid or terrible people, that they might actually have a small point.

I don't have much time to get this conversation started, so let me set the stage with a small story, apocryphal no doubt, that I heard from my father a lot of years ago. It seems a farmer on horseback was hurrying home to the homestead when a sudden downpour turned into a flash flood. And, because he wasn't sure what else to do, when he came

to the stream bordering his farm, he rode the horse right straight through the stream.

Well, the situation was worse than he anticipated, and the result was that the horse and rider were both swept downstream, both nearly drowning before they managed to clamber to safety and return to the homestead.

And after that, after that the farmer couldn't induce that horse to cross that creek even when the flow was just a trickle. My Dad's point was that knowledge and experience are useful only if they are tempered by judgment.

I make a slightly different point this morning. If you compare that stream to racism in America, then too many of us African Americans are like that horse. Their personal and handed-down memories of life-limiting racism are so vivid, their recollections of "can't cross here" denial of opportunity so strong, that they dare not enter the stream even when it is relatively calm.

They stand on the far bank, perhaps cursing the water, perhaps merely shrugging at the way things are. Their remembered futility and danger won't let them notice that the water isn't nearly as bad as it used to be. Oh, it was bad, all right. It

was bad. And more than a few of our race drowned in the attempt to cross it.

And now you're thinking, here comes this silly old man about to tell us that the stream has dried up. Well, no, I'm not.

I recently attended a two-day conference on the difficulties facing young black men, and the speakers were uniform in their view that racism is alive and well in America.

One scholar reported his findings on the relative difficulties young black men face in the market. He sent three young men -- a black man, a white man, and a Hispanic -- all carefully matched for education, experience, and speech, and all of that, to a series of employers. It turned out that the white applicant generally received the best treatment, the Hispanic second best, and the African American the worst.

All three may have been granted interviews, but sometimes the white guy was offered a better job than was advertised, and sometimes the black guy was offered a lower job than had been advertised.

No, the stream isn't dry, even when some white people seem to think it is.

Am I the only person who remembers that old TV series called Black White, Black. White? You know, the one that had black and white families reversing roles?

Remember how frustrated Brian, the black guy, became when Bruno, the white guy, refused to see the racism that was so clear to Brian? They walked down the street together, and Brian would sense the racism and, "See?" -- and Bruno said, "What?"

Both men were frustrated. Bruno turned to Brian and said, "You know, you must be looking for racism." And of course we are looking for it. We pounce on a Jena, Louisiana or a Glenn Beck or that smart mouth Dr. Laura, as though we have found the magic potion that will finally make white people understand what we have been complaining about.

We are determined to convince white America of what is a plain-as-day fact for us: racism abounds. The racist stream has not dried up, and maybe it never will.

The point is this: you become expert at finding what you spend a lot of your time looking for, whether that is mushrooms, gold nuggets, racism, or opportunity. Oh, yes, there's racism out there, but there is also unprecedented opportunity.

My mind goes back to that frightened horse. The neglect and failure some of our young people see all around them, the disrespect they often receive from cops and clerks and comics, the low expectations the world seems to have of them, even the looks they encounter, all have convinced them that the stream between them and a better life is a virtual Niagara.

And we who know full well that the stream is crossable often add to their dread by talking about how racist the society still is and how a poor black kid has a better chance of winding up dead or imprisoned than educated.

"Just look at their schools," we'll say -- underfunded, poorly maintained, inadequately staffed. Who can blame these kids if they fail? We say it for them, honestly believing that calling attention to the residual racism and unfairness will help them by absolving them of the shame of failure while simultaneously fixing the blame on the enemies over there.

And what we fail to see is that we are reinforcing their self-doubt, their fear of that once-raging stream. The danger, I believe, is that our good intentions may actually have the effect of

discouraging young people, I mean, in the literal sense, of taking away their courage to try.

Conservatives sometimes miss the point that there is a genuine dilemma. It seems fundamentally unfair to take kids who have had none of the material and psychic advantages of growing up middle class and secure, and to tell them that they must now compete unaided with the children of privilege.

But how helpful is it to take these same disadvantaged children and reward them not for achievement but for effort, as though they are participants in some academic Special Olympics?

Some of us point to the underequipped schools and underprepared teachers that are undereducating some of our children as though that is the whole answer. Others point to fatherless households, the lack of exertion, or to cultural distractions as though that were the whole answer.

Well, there have always been both external and internal barriers to racial progress in America. My caution is not to focus so exclusively on the outside barriers that we neglect those that are inside us.

Everybody has a favorite Martin Luther

King, Jr. quote, and, no, I'm not going to have a dream this morning. But I do want to call your attention to a quote that I think is largely ignored, but that serves to make the point I want to make this morning.

In his strive towards -- the reason he was talking about the very kinds of issues I'm talking about, and he said this, "In short," he said, "we must work on two fronts. On the one hand, we must continue to resist the system which is the basic cause of our lagging standards. On the other hand, we must work constructively to improve the standards themselves. There must be" -- and I love this -- "there must be a rhythmic alternation between attacking the causes and healing the effects."

Why don't they carve that one on somebody's cornerstone? Because that really, really says it all.

Save a little time, Gerry, because you are going to -- these things tend to grow, so I'm going to cut this a little short.

What do we tell our children? What should we tell our children and grandchildren? Yes, steel them against the shock of racism. Let them know that it is very likely that something untoward will happen.

Yes, remind them of battles overcome. Point out to them that some of us, in fact most of us who have achieved some measure of success in this world, likely have some mud on our boots from crossing that not-yet-dry stream, but we crossed it.

Tell them those things, but tell them also this: the salient fact of black life in America today is not denial of opportunity, for those who would grasp it. The new and powerful truth of our situation is simply this: the stream is crossable. The stream is crossable. That's great, good news, and it may be true for most of us for the first time in our history in this country. And we treat it as an inconvenient fact.

What powerful white people -- whatever they used to think about black boys and girls, corporate America today needs them. But it needs them smart and curious and computer savvy and all the obvious things that so many of our boys and girls are not getting or not becoming.

We are past the day when bustling factories and powerful trade unions made the willingness to work hard sufficient to guarantee a good income. These days you have to know something and show yourself ready to learn a good deal more.

I'm not talking here of intellectual genius, by the way, only of a willingness to make the sort of exertion academically that good athletes routinely make physically. We can do it. Some of our young people are making that exertion.

I was recently in San Diego at the annual conference of the National Association of Black Journalists, and, even at a time when journalism is struggling to redefine itself, when jobs are fewer in the business, and where there is less emphasis on diversity, and when the future of journalism itself is as clouded as it has ever been in my lifetime, these young people are doing what they can to retool themselves. They are learning new skills, making new contacts, calling on us old heads in the business for help and advice.

There is an interesting thing about these young people. They have parents or mentors who understand the importance of being prepared, even in the face of incomplete opportunity.

I am encouraged by parents and mentors who sacrifice and cajole and nag their children into trying hard, and to being "twice as good" as we used to say, if that's what it takes. And I am deeply distressed by the young people who are not striving,

whose parents and advisors focus on how unfair things are and not on how possible things are.

They are self-destructively cynical. They think they have given up on white people when in fact they have given up on themselves. They languish on street corners and in prisons, not because they prefer those haunts but because they doubt that much else is possible.

A wise man once said, "Whether you believe you can succeed, or believe you cannot, you're right."

Well, life is still no crystal staircase, as Langston Hughes observed, but success is possible. It is this fact that our children must hear from us and take to heart, even while we continue to consider and work against racial unfairness.

It is unwise and untrue to tell our children that because Barack Obama is in the White House the world they inhabit is suddenly fair. But I think it is worse not to tell them that the waters have in fact receded to the point where crossing is possible.

Let me end with a story of a lady who, finding herself in dire and undeserved financial straits, asked the Lord to let her win the lottery. Well, she prayed and she prayed quite earnestly, but

when they held a drawing at the end of the week she hadn't won.

Next Monday she is back on her knees, "Lord, my son may have to drop out of college. The store is threatening to take my flat screen TV. And I can see by the papers that you let people less needful and less holy than I am to win major jackpots. Lord, I need to win the lottery."

Again, nothing. "Lord," she said the third week, "didn't you promise to bear your servants up, lest they dash their foot against the stone? Well, Lord, I'm just about stone broke. I need to win the lottery."

And then, in the still of her room, she heard this voice, "Cut me a break. Buy a ticket."

(Laughter)

We have gotten very good at making demands or earnest requests or supplications for what we need. We demand that the government improve our schools, that employers cut us some slack, that white people stop being so racist, and it's okay to do that. There's nothing wrong with that. But while we are demanding that other people do what they ought to do, we need to do what we ought to do.

We need to remember, for example, that the

most influential educational resource a child can have is a parent who cares. And we need to admit that sometimes parents are the missing ingredient in our children's success. We need to acknowledge that the culprits in our children's failure often share our skin color, our zip code, and sometimes our street address.

What shall we tell the children? The stream may not be dry, but the stream is crossable. You can make it. We will help you make it if you try. Buy a ticket.

Thank you, Gerry.

(Applause)

MS. TOLHURST: At this point, we are going to head straight into our first panel. So if Commissioner Kirsanow and our panelists could take the stage.

PANEL I: DISCRIMINATION THEN AND NOW

COMMISSIONER KIRSANOW: Good morning, and thank you for attending the national conference, and thanks very much to William Raspberry for comments that went outside the traditionally acceptable narratives. And I think that's part of what we are trying to do here today. We want to think a little bit outside the box, but we are still in a box, and we

want to figure out how we got to that box.

And before I go into introducing our distinguished panelists, I want to tell you a little bit about what we are about today with respect to this panel. This is Civil Rights Then and Now. I didn't come up with that title.

Consider the arc of civil rights over the span of our nation's history, and the evolution of civil rights in what is known as the race problem. When the Civil Rights Commission was established in 1957, we didn't have, obviously, a 1964 Civil Rights Act or Title VII, things that we pretty much take for granted right now.

There was no 1965 Voting Rights Act. We are only a few years removed from *Brown v. Board of Education*. Segregation was rampant. I don't think anyone could imagine that we would have, at any time within our lifetimes -- and I was around at that time, despite my youthful and virile appearance --

(Laughter)

-- that we would have an African-American President, two black Secretaries of State, a Latino Supreme Court Justice, a couple of black Supreme Court Justices, black and Hispanic and Asian captains of industry, doors open for all, wide open in almost

every sphere of society; yet, despite those manifest successes, there are considerable disparities that persist.

The largest disparities are between possibly whites and Asians on the one hand and blacks and Hispanics on the other. But the disparities are, I think, incapable of effective enumeration.

If you look, for example, in the appendices to Professor Brooks' book on the -- his latest book with respect to Race in the Age of Obama, you will see some startling disparities on a host of levels, including rates of incarceration, educational attainment, income in almost every facet of poverty measurement imaginable.

So the disparities exist despite more than nominal successes, and the aim of this panel is to try to get at, what was the predicate for how we got here today? What are some of the competing civil rights and "race problem theories" that abound today, and the evolution of the competing models?

So, without further ado, I'd like to give you an abbreviated introduction to each of our panelists, because their accomplishments are too numerous to shoehorn into the limited time that we've got. I'll introduce them all cumulatively, and then

they will each speak separately. And then, as Kim Tolhurst told you, we will have time for questions. I may pose a few questions, and we encourage the audience to pose any questions that they may deem fit.

I would think that some of the commentary you are going to hear on this panel will bleed over into the subject matter of the next panel dealing with family structure, and, frankly, will bleed over into virtually every panel and may give us some insight as to what should happen with respect to the Civil Rights Commission, the subject matter of the last panel of the day.

Our first speaker is Professor Roy Brooks, distinguished professor of law at the University of San Diego. Professor Brooks is the author of over 100 articles and chapters and 20 books. And his most recent book, *Racial Justice in the Age of Obama*, tackles the critical question of developing the best post-civil rights model or theory.

Prior to joining the University of San Diego faculty, Professor Brooks had a distinguished legal career beginning with a federal court clerkship and was in private practice with Cravath, Swaine, and Moore.

Our second speaker is Roger Clegg,

President and General Counsel for the Center of Equal Opportunity, a think tank devoted exclusively to promoting color-blind equal opportunity and racial harmony. And, before his work at Center for Equal Opportunity, Mr. Clegg held a number of positions with the U.S. Department of Justice, including Assistant to the Solicitor, where he argued three Supreme Court cases.

He was the number two man at the Civil Rights Division of the Department of Justice in the Environment Division. He also served as Vice President and General Counsel of the National Legal Center for Public Policy, where he edited and wrote a variety of publications on legal issues of interest to business. And he is a Contributing Editor to, among other things, National Review Online, and writes frequently for USA Today, The Weekly Standard, The Legal Times, The Chronicle of Higher Education, and several other periodicals and law journals.

And, finally, Professor James T. Patterson is the Ford Foundation Professor of History Emeritus at Brown University. He is a graduate of Williams College, and he worked as a reporter for the Harvard Courant -- I'm sorry, Hartford Courant, prior to attending Harvard University, where he received his

Ph.D. in history.

His recent publications include *Grand Expectations: The United States 1945-1974*, for which he received the Bancroft Prize in History. He also wrote *America's Struggle Against Poverty in the Twentieth Century*, *Brown v. Board of Education: A Civil Rights Milestone and its Troubled Legacy*, and, most recently -- and he will be discussing the subject matter of this -- *Freedom is Not Enough: America's Struggle Over Black Family Life from LBJ to Obama*, which provides a historical account of the Moynihan report.

Dr. Tera Hunter of Princeton was to join us today, but she had an emergency to attend to. She regrets that she can't be with us.

I will be in charge of enforcing time constraints, so don't take it against me if I look ruthless. I know with the mustache sometimes I do. I will twirl it from time to time.

And with that, we will start with Professor Brooks. Thank you.

(Applause)

MR. BROOKS: Thank you, Commissioner. I have 15 minutes to cover a great deal of material, so I'm going to have at it.

I want to begin where I began in my book, *Racial Justice in the Age of Obama*, and that is with a discussion of my fellow law students at Yale Law School in the early 1970s. And there were not many of us there at the time, but we routinely discussed civil rights issues after dinner in the Yale Law School cafeteria.

And some of the students were conservative, such as Clarence Thomas, who now sits on the Supreme Court of course, and others were liberal, such as Lani Guinier, who is one of the leading critical race theorists today.

We sat at a table that we called the "black table." And in the book I describe the black table as follows: The black table was not a liberal or conservative table. It was a scholars' table, a truth-seeking table. We disagreed routinely, but almost as often conceded opposing arguments. We did not just have opposing opinions; we also had knowledge and integrity, which enabled us to walk away from the table as friends and remain friends to this day.

At the risk of sounding presumptuous, I would like to invoke the black table's ambience of civility, probity, and intelligence for today's discussion, and I hope that we can give polite

consideration to opposing points of view. That is the only way that I know how to play this game.

Let me start with an allegory of a poker game. This game involves two individuals, one white, the other black. And the game has been in progress for about 350 years. During this time, one of the players, the white player, has been cheating. And at the end of three and a half centuries, the white player stands up, scratches, and says, "Okay. From this day forward, no more cheating. We're going to play it fair and square."

The black player then looks up from the table and says, "Great. I have been waiting 350 years to hear you say that. But let me ask you, what are you going to do with all of those poker chips which have accumulated on your side of the table?"

And, folks, I submit to you that today, some 40 years after the cheating has stopped, that the key to understanding the nature of the problem of race lies in the poker chips, not in racism, nor in class or culture. The poker chips represent financial, human, and social capital advantages in white society, and capital deficiencies in black society.

The poker chips, in other words, define the American race problem today. They define the

American race problem today. The American race problem, in my view, is properly defined as a problem of resource disparity between black and white Americans.

The problem relative to African Americans is a problem of deficiencies, capital deficiencies in black society -- financial capital deficiencies, meaning income and property; human capital deficiencies, meaning skills and formal education; and social capital deficiencies, meaning low social -- not self, but social esteem and the inability to get things done in our society.

To be sure, African Americans on an individual level are experiencing unprecedented racial opportunities and success today. There is no doubt about that. But the age of Obama is also defined by a different racial dynamic, and that is continuous, uninterrupted racial despair for a great many African Americans.

These contrasting racial dynamics of individual success and opportunities, in a kind of collective black nihilism, make defining the problem of race today very difficult. So one can quite understand those conservatives who argue that the best way to define the race problem today is not to define

it at all.

That is to say, it is not only the unprecedented opportunities afforded to blacks individually, but it is also the death of Jim Crow and the concomitant rise of formal equal opportunity as the law of the land that leads these individuals to argue that we are in a post-racial society.

The problem we face, they argue, is that -- is one of culture or class. The problem consists of teenage pregnancy, broken families, black on black crime, a hypersensitivity to race, and lack of educational ambition.

Liberals, in contrast, insist that we still have a race problem today, and the problem, as they define it, is one of white racism. And for liberals they define the problem less in terms of individual racism than institutional or societal racism, less in terms of racial antipathy than in terms of racial stereotyping, less in terms of front stage racism than in terms of back stage racism.

In my view, both conservatives and liberals are wrong. The conservative conceptualization of the problem is wrong, because, for example, college-educated black men are doing everything that conservatives say blacks ought to be

doing culturally, and yet today they earn $20,000 a year less than their white counterparts.

At the end of Jim Crow, at the beginning of the post-civil rights period, these black individuals earned $16,000 less than their white counterparts. So the problem has gotten worse since Jim Crow, not better.

The appendix to my book contains 100 carefully tuned statistical tables that measure financial, human, and cultural capital deficiencies of all of the major racial groups since the end of the Jim Crow period.

Liberals are also wrong in their characterization of the race problem, because racism and discrimination have certainly declined since the end of the civil rights movement. Forty-three percent of whites voted for a black President. That would not have happened when the black table was in session.

But the racial differentials and resource disparity have pretty much remained constant since the end of the civil rights movement, and in some instances they have gotten worse.

Also, institutions today are pursuing diversity like never before. There is -- one black partner in a Wall Street law firm told me that

diversity is a billion-dollar-a-year business. The fact is, if racism or discrimination ended today, blacks would still have a problem tomorrow, and that collective problem is capital deficiencies.

Now, this is not to say that behavior and structure are irrelevant considerations. I'm not saying that. In fact, each provides an answer to what I consider to be the central issue in civil rights theory today, and that is whether the American race problem -- again, defined as resource disparity -- is sustained so far into the post-civil rights period by the internal factors of bad behaviors and bad values within black society, or by the external factors of race, racism, racial discrimination, or perhaps even a corrupt American culture at large. That is the issue.

In the book, I reposition post-civil rights theory as a debate over that question. The debate is among four broad post-civil rights theories constructed from a synthesis of the major theories, half-theories, suppositions regarding race, racial justice, put forth since the end of the civil rights movement. I sort of cover everyone from the right to the left and in between.

Let me just give you what can only be an oversimplification of each theory. The first theory

is traditionalism, and traditionalism basically argues that race no longer matters in the age of Obama; ergo, the solution is internal.

The second theory is reformism. A reformist, in response to the traditionalists, says race still matters. Yes, there is black pathology, but it's exogenous. So the solution is internal and external.

The third theory is limited separation. Limited separation says that self-interest matters more than racism today, that white Americans, especially young whites, simply do not see pursuing racial justice to be within their self-interest. They have too many other considerations. And so the best place for blacks to find a helping hand is at the end of our own arm.

The fourth theory is critical race theory, and the critical race theory says, look, the problem of race is inextricably tied to the problem of power in our society. Insiders have power; outsiders don't. And that has been the case since the beginning of our republic.

So you can't do anything significant about the race problem until you do something about the problem of power; ergo, the solution is external and,

hence, beyond the control of blacks.

Now, I leave it to the reader, and to you, to determine which theory offers the best diagnosis and prescription for the American race problem. I take a position in the book, but in -- because I was forced to take it by my publisher. I did not want to take a position, because I don't know, I simply do not know. And I think that what I'd like to see done is that we sort of look at the issue the right way, what I consider to be the right way, and to try to come up with solutions that are going to be effective.

With that, my time is expired. Thank you.

(Applause)

MR. CLEGG: First of all, I'd like to thank the Civil Rights Commission for inviting me to participate in this panel today. This is a terrific conference and a terrific panel, and I really feel fortunate to be able to be part of it.

I think today should be a celebration. Imagine your legal and social status, your relationship legally and socially to other Americans, white versus black, if you were in 1650. Think about that for a second, you know, how you would feel toward a person of a different race, what your different legal rights would be, what your different -- you

know, your different social status would be, if this were 1650. Okay?

Now imagine that it's 1950, and how things are different in the way that you relate to the person next to you who is a different skin color, the way you relate to them as a legal matter and as a social matter. Okay? It's 1950 in your mind. Think of that, what that would be like. Okay?

And now think of what it's like in 2010, today. Think of how you relate to a person of a different skin color, your different legal rights, your different social status, the way you relate to that person socially in 2010.

Now, if you can honestly do that exercise and not feel really good about where we are in 2010, then I don't think you are being honest. This country has done great stuff in the past 3- or 400 years when it comes to race relations, and I don't think we should lose sight of that big picture today as we go through, you know, the remaining challenges that we face.

When we ask ourselves what we need to do with respect to race relations -- and I'm going to simplify things. I'm going to be talking about, you know, blacks and whites. I'll say a little bit more

about that in a minute. But how do we -- you know, where do we want to end up?

I think, you know, you have to -- if you are analyzing sort of what is wrong with where we are and what needs to be done, you need to give some thought to, where do we want to end up? How should, you know, blacks and whites be relating to each other? Where do we want to be ultimately?

I don't think anybody wants or expects Americans to be literally color blind, you know, where you just don't recognize it. I don't think that we expect African Americans to forget that they are African Americans, that they have a different heritage than somebody from Ireland or Italy or someplace else like that.

But I think that, you know, a realistic goal is for being African American to be like being Irish American. You know, you can be proud of being Irish American. You know, you certainly don't try to hide or ignore that background. It's something you may celebrate, maybe more than once a year, on Saint Patrick's Day, but, you know, that's all fine.

But it certainly shouldn't affect what your rights are or how you are treated by other people. You know, we are not -- we don't expect all

Americans to, you know, eat the same foods, to, you know, dance the same dances, listen to the same music. But, you know, we do expect certain commonality of interest and respect among one another. And I think that that's, you know, where we want to end up.

Well, okay, so how are we doing, then, if that's where we want to end up? How are we doing in our treatment of African Americans? Well, I think it's useful to divide into three parts the ways in which we have fallen short, and then ask how we are doing now in 2010.

Well, the first and most obvious is the law, and I think that everybody would agree that we don't want to have a legal regime that sorts people according to skin color and what country their ancestors came from, and treats people differently, some better and others worse, depending on which box they check. And we have done pretty well on that, right?

In fact, not only do the laws not -- does the government not treat people differently on the basis of what box they check, with, ironically perhaps, the exception of affirmative action, which I'm not going to dwell on today. But, you know, otherwise the law does not make those kinds of

distinctions.

In fact, to the contrary, it prohibits private individuals and corporations and universities, and so forth, from engaging in that kind of discrimination in just about any public transaction, whether we're talking about education or contracting or employment or voting or public accommodations or credit. You know, you name it, that kind of discrimination is illegal. You can't do it.

The second big area is prejudice. You know, forget what the law says, how do Americans treat one another? Well, again, I think we have made huge progress. I don't think that anybody believes or asserts that there is no discrimination, that there is no prejudice. That stream is not dry, and it will never be dry. There will always be prejudice. People of all colors, some of them, you know, will have prejudice of one kind or another.

But I think, there again, you know, whether you look at public opinion polls or, you know, other kinds of data, you know, the progress that we have made is enormous.

I'll just tell one story. When my son started to college -- he plays ice hockey -- and one of his -- one of the guys that he was living with, one

of his roommates, was white and was dating a black girl. And we met the two of them, you know, the couple that was dating, and then later on we met Paul, my son, and, you know, told him that we met, you know, your buddy and his girlfriend.

He says, "Oh, you met her." And he said, "Yes." "You know," he says, "I don't know if I could -- would want to date someone like that." And, you know, my wife and I sort of, you know, gulped and said, "Well, you know, what do you mean?"

And he said, "Oh, well, you know, they're both on the track team. I just think it would be really awkward, you know, to be dating somebody, you know, that was on -- now, for instance, you know, it would be very difficult for me to date somebody that was on, you know, my hockey team. I just think" -- and he said, "Well, you know, maybe it's a little bit different because, you know, track and field, you know, you're not exactly -- I mean, you're on the same team, but you're sort of doing maybe completely different things. You know, maybe one person is a pole vaulter and the other is a hurdler, so you're not really" -- anyway, that's the way the conversation went. I mean, that was the big issue, you know, for my son.

And, you know, this is southern Virginia, okay? I should also say that everybody involved in this story was Republican --

(Laughter)

-- including, you know, the girl actually had a -- you know, like our President, had a white mother and a black father. The father was a Republican-appointed judge. But, anyway, I think we have made, you know, enormous progress, you know, with respect to prejudice. It still exists.

So then the question is: well, you know, why does it still exist? I mean, do white parents, you know, secretly, you know, draw the shades and then instruct their children that, well, look, you know, this is the way you should think about, you know, black people. You know, they are really not the same as we are. Is that what happens? I don't think so.

I mean, I think that, to the extent that we still have prejudice, it is fed by the third problem, which is racial disparities. You know, we have disparities in crime, in poverty, in education. And it is unfortunate, but I think people do make generalizations, you know, based on that. You know, they don't need anybody to tell them that, you know, this or that group, you know, has a high rate of

crime.

You know, Jesse Jackson, you know, the famous story, admitted that when he is walking down a dark street and he hears footsteps behind him, and he looks around and he sees a couple of white kids rather than a couple of black kids, he feels relieved.

So I think that these disparities are, you know, part of, you know, the remaining problem that has to be addressed.

Now, I hasten to say that I don't think that we should expect there to be no disparities in anything, you know, for all time. You know, there are always going to be some differences among racial and ethnic groups and, you know, how many decide to become lawyers and how many decide to become doctors and how many decide to play football rather than basketball, rather than ice hockey, rather than track and field.

So, you know, we don't expect there to be, you know, perfect demographic balance in every walk of life. But I think that even conservatives, you know, like me admit that it is not a good thing if you have big disparities between the bottom of the socioeconomic ladder and the top.

Well, so where do these disparities come from? Some of it is historical. You know, some of it

is a result of the poker game that Professor Brooks was talking about. But a lot of it is because of something that we are going to hear, I think, a lot about today, and that is that seven out of ten African Americans today are born out of wedlock. Seven out of ten.

That is a huge problem. In my view, that is the number one domestic policy problem facing the United States. And that is what feeds these disparities, you know, whether it's poverty or education or crime or whatever, you know, that is, you know, the problem.

And I don't have a magic wand for how to -- you know, how to address it. I think that it is fundamentally a moral problem, and so I think that churches, particularly African-American churches, are going to have to step up to the plate on this. But that is, I think, the fundamental problem that drives these disparities. And, as I said, I think it's these disparities that are the -- are to blame for the problems, remaining problems that we have with respect to, you know, race relations in the United States.

Well, again, I said that this should be a celebration, so I certainly don't want to end on a down note. Again, you look at where we were in 1650

and where we were in 1950 and where we are now, and, you know, these problems are serious, but they can be addressed. There are certainly things that we can feel more optimistic in addressing than, you know, when some of us were enslaving others or lynching others or anything like that.

Let me end by -- I said that I didn't want to focus entirely on making this a black and white, you know, issue. America is increasingly a multi-ethnic and multi-racial society. You know, we have more Hispanics now, for instance, than we do African Americans. And one of the things that I have, you know, been thinking -- you know, think about in my job is assimilation.

And, you know, again, I think assimilation doesn't mean we all have to eat the same food, that we all have to dance the same dances, but it does mean that we do need to have certain things in common, and I think I am going to just read you my top 10 list of things that Americans have in common.

And I think it's something that we should demand not only of immigrants when they come to the United States, but that we demand of the people who are already here, you know, whether they're African Americans or Italian Americans or Irish Americans who

have been here all along.

Number 1, respect other racial and ethnic groups. Number 2, no historical grudges. Number 3, no preferences or special treatment for your group. Number 4, respect women. Number 5, you need to learn how to speak English. We need to be able to communicate with one another.

Number 6, studying and working hard is not acting white. Number 7, follow and respect the law. Number 8, be reasonably polite to one another. I gave this talk in New York City one time, and I had to modify that slightly. Number 9, don't have children out of wedlock. And, number 10, be proud of being an American.

I mean, I think if we all did that, we would get along pretty well.

Thank you very much.

(Applause)

DR. PATTERSON: When I first became a college professor in the mid-'60s teaching American history, like many people teaching American history I had -- this was mostly 20th-century American history that I taught -- I really had very little to say about race relations or black history, and this was typical of those times.

One of the things the civil rights movement did, among many things, was to awaken us to the fact that 12 or 13 percent of the population were black, and that this was a -- the race problem deserved a lot more attention than it was getting.

So over time I, like so many other professors, moved into teaching and writing black history, and I ended up writing a book on the *Brown v. Board of Education* case, and most recently the book which I suppose got me invited here entitled *Freedom is Not Enough: The Moynihan Report and America's Struggle over Black Family Life from LBJ to Obama*, which is -- I mention this so that you may go out and buy it. It is --

(Laughter)

It appeared with minimal fanfare last spring and is, as the title suggests, a book about the Moynihan report, what it was, what happened to it, and whether or not it has any relevance to race relations today. So bear with me while I tell you a little bit about the report, which most of you probably know something about, but it really bears reading today.

It was a 78-page document written as an internal government report while Moynihan was an Assistant Secretary of Labor in the Johnson

administration, and it appeared in the spring of 1965, was leaked over the summer and became known as the Moynihan report, although, in fact, its actual title was "The Negro Family: A Case for National Action." And it did not bear his name on the cover, but it was his document, he wrote it, and it stemmed from his concerns.

Moynihan, as you know, later went on to become a four-term Senator from New York State and was replaced by Hillary Clinton in 2000, and he died in 2003.

The arguments of the Moynihan report -- and I'm going to be relatively brief with it, because most of you probably know -- these were very liberal arguments. Moynihan was a great fan of Kennedy, which first brought him into the Labor Department in 1961. He was a liberal Democrat, an Irishman from New York City. He really believed that government could make a difference, which is, as I see it, the central tenet of most -- of what American liberalism means to most people today.

He said that "The problem facing the Negro family was that there was a racist virus in the American bloodstream" -- that's a quote -- which caused "three centuries of unimaginable mistreatment,"

and which appeared most obviously in the weakness of the lower class urban black family. He made it clear that he was not saying this was true of all black families.

But this led to an out-of-wedlock birth rate in 1965 of around 25 percent. The word he used then was "illegitimacy." Even our words have changed.

He talked about a black matriarchy and particularly drawing upon some language from Kenneth Clark, whom he had consulted and who wrote the book *Dark Ghetto* earlier in 1965. He was, of course, a black psychologist. Moynihan referred to this situation as a tangle of pathology, i.e., a sickness which was really dragging the lower-class black family down.

Moynihan's report got to Lyndon Johnson, although we don't know whether he read it, but he certainly read of it and was told of it by Bill Moyers and others in his administration, whereupon he asked Moynihan to write a speech that he, Johnson, was going to give at Howard University on June 4, 1965, a speech that many people said was the greatest civil rights speech Johnson ever made, in which Johnson made clear, following in the Moynihan report, that legal equality, which he said was being achieved by the Civil Rights

Act of 1964 and would be furthered by the soon-to-be-passed Voting Rights Act of 1965, the United States had to move beyond conferring or guaranteeing legal equality to doing something about social and economic conditions; that is, to promote social and economic equality for Americans.

As I say, Johnson gave this speech. It received a fair amount of attention. He said in there "Freedom is not enough," from which comes the title of my book, and that one had to move into a whole range of social issues. Moynihan's major thought at that time about what to do about this was to do something to turn around the situation of black men for which, by the way, he was later hammered by feminists, although in 1965 you will remember -- and we historians really urge you to remember what the past was like -- feminism was not a big deal in the United States.

NOW, the National Organization for Women, wasn't created until 1966. The Equal Employment Opportunity Commission, which was supposedly established by the 1964 Civil Rights Act, was not in fact created until July 1st of 1965. Its first chairman, Franklin D. Roosevelt, Jr., was not at all really committed to the project, which is one of the

many things which led women, for instance, who were also guaranteed equality by the Civil Rights Act of 1964, to form NOW in 1966.

Well, the Moynihan report, as I say, was a hopeful document. Moynihan thought that the real answer was to do something to provide greater employment opportunities for black men. Presumably, although he did not spell out this in his report -- in fact, although the subtitle was The Case for National Action, he was unspecific, something for which he was also hammered.

Critics said, "Well, you're saying all of these terrible things about black families, but you don't tell us what to do about it." Moynihan's answer to that was this was an internal document. He wanted people in the administration to fully understand what was going on, and we would sit down and seriously figure out what to do instead of rushing into some ill-conceived legislation.

But his goal, I think, was to provide greater employment opportunities, probably something like the Works Projects Administration of the New Deal, which provided government employment.

He also had in mind all the way through his life, as an Irish Catholic who understood European

social programs, a system of family allowances by which all families would receive allowances for their children, whether the families were rich or poor.

This is a system of allowances which exists today in many countries, many western industrialized countries, including Canada, from which I have just returned from a fishing trip, and these are modest, but they do not discriminate against rich people who happen to have kids. They go out to everybody.

Therefore, there is no stigma; there is not a great deal of bureaucratic hassle. The money just goes out as it would in some other programs.

He also believed strongly in birth control. Here, of course, he broke with his religion.

Well, as you know, the Moynihan report ran into a hailstorm of criticism. I haven't time to go into all of this. There is a woman over here who raised a sign to tell me I have X number of minutes.

(Laughter)

I will try to make it quick. It is one of these unfortunate coincidences. In the first place, Johnson then escalated the war in July of 1965, in a huge, big time, which caused a lot of fracture within his strong liberal Democratic party coalition. They

wouldn't really trust anything that Johnson wanted to do.

Secondly, and more important, the Watts riot occurred on August 6, 1965, and lasted for five days and received enormous television coverage. This scared a lot of white people who had supported, until that time, if they were liberals, an interracial civil rights movement.

They started to say, well, maybe they just aren't abused and discriminated against churchgoing, innocent black southerners. Now these are angry white -- angry black urban kids, who are destructive and don't deserve help.

It also greatly changed the civil rights leaders, who were almost as surprised as Johnson was. He kept saying, "Why are they doing this to me?" You know Johnson. He assumed everything was either his fault or the result of what he did.

And many black leaders then realized that they had to catch up with the militants of the masses in the cities and to take over control of the civil rights movement. And this led, of course, to black power by 1966 and the essential ejection from SNCC and CORE of white participants.

And they looked at the Moynihan report as

a harsh and judgmental description, tangle of pathology, I remember, of black lower class urban culture. And they wanted nothing to do with this white Irishman who was telling them how to run their families.

Johnson by then wrapped up an escalation of the war, angry at these black leaders. After all, Johnson felt he had made it possible for the civil rights laws of '64 and '65 to pass, basically consigned the report to oblivion. And, as other people have mentioned this morning, we endured maybe 25, 30 years of non-debate or dishonest debate over what was the problems of black middle class -- lower-class families.

Moynihan, in an essay that he wrote for Commentary magazine in 1967 reflecting upon this, he felt really bruised by this. He was called a racist and had a hard time ever getting over what had happened to him. He referred to this change of direction from the Howard speech of June 1965 to the mood of late '65 and the black power mood of '66 as the moment lost in American history.

Historians are always interested in turning points. Was this a moment lost? If something had been done to follow up the Moynihan report by the

Johnson administration, as had seemed to be likely, would things have been different? I don't think so, for reasons I will suggest, but certainly it seemed that way to him.

During this time, the problems that he described escalated, so that, as many people have pointed out, the out-of-wedlock situation today is around 73 percent of black children born that way. In 1965, the rate, as I say, was 25 percent, so it has gone from 25 to 73. It has actually been around 70 for almost 20 years now, so it "zooped" up in a big hurry. It has stabilized since then. One wonders, it probably can't get much higher, if you think about it.

The white rate, meanwhile, which was three percent in 1965, compared to 25 percent for blacks, i.e. one-eighth, has gone up to 28, 29 percent now. So it has gone from three to 29, the black from 25 to 73. The white rate has grown faster, because it started at such a low level. But the gap is, of course, huge.

And one asks, why such increases? We have heard from some of the other speakers that things are a lot better today than they used to be. Well, they're not better in this regard. They are much, much worse. And I would agree with Mr. Clegg in

saying there is no more -- there is no single greater problem affecting black America than this.

Why such increases? Well, I haven't time to go into this either. Read my book.

(Laughter)

That's the second plug. That's what professors do. Nobody reads our stuff, so --

(Laughter)

-- if we get a chance to talk, we do.

The answer is a combination of economic and cultural forces. The economic forces, which have been especially stressed by black scholars and white scholars, the most eminent is William Julius Wilson, who has written a number of books on this subject, talking about the deindustrialization of northern and western cities, which had previously provided something like a stable income for blue-collar black people, created larger unemployment.

The second is cultural forces or rights consciousness or what the author Andrew Cherlin, who is a Johns Hopkins professor, who wrote a good book last year called *The Marriage-Go-Round* -- Andrew Cherlin, *The Marriage-Go-Round* -- refers to his expressive individualism.

This was a byproduct of, among other

things, the civil rights movement, causing Americans -- another cause of this was the greater affluence of American society and the incredible materialism of American society, people thinking they have a right to do what they want. They have a right. This is what he calls expressive individualism. I have called it, in some of my books, rights consciousness.

This has occurred throughout the industrialized western world. Numbers such as I have described exist in all Western countries, not Japan, all Western industrialized countries. If you put together the 73 percent and the 28 percent black and white today out of wedlock, and you throw in the Hispanic rate -- as has been pointed out, there are more Hispanics now than blacks, and more Hispanic children than blacks -- they are around 50 percent. So the overall average is 41 percent of all children in the United States today are born out of wedlock.

The vast majority of these children grow up in fatherless families, which there is nothing wrong with that -- women can raise kids. But most of these families are desperately poor. Anyway, you know this subject. You don't have to have me explain it. It's pretty clear.

So you have -- this is part of a worldwide

1 situation in industrialized countries. There are
2 other countries, in fact, who have rates higher than
3 our 40 to 41 percent, but none comes close to the
4 black rate in the United States of 73.
5 Well, what can we do about it? I'll close
6 with this. Have you raised your sign yet?
7 TIMEKEEPER: Yes.
8 DR. PATTERSON: Okay.
9 (Laughter)
10 Well, I close with some comments, as
11 others have in the media, about the reputed successes
12 of the Harlem Children's Zone, which is a holistic
13 program, which some of you know, which deals with
14 mothers when they are pregnant. It has preschool and
15 pre-preschool. It has counseling. It has health
16 care. It is reasonably well funded.
17 Obama pushed for this in -- during the
18 campaign of 2008, and since, and I mention this as a
19 promising development. But this is -- what is
20 happening there requires massive resources. It is
21 very hard to duplicate, to keep up. A lot of fund-
22 raising takes place all the time. The teachers work
23 very hard, and there is always the possibility, as
24 there is in KIPP schools and other such situations, of
25 burnout. And so whether a massive expansion of

programs such as that will really happen, or make an enormous difference, is hard to say.

The final point is that government cannot stop people from having children. So I conclude, I guess as Mr. Clegg does, by saying I don't know what the answer to this problem is, because it is both economic and cultural, because it is international, and because it is especially problematic for blacks.

Let me finish with a quote. This is from the white social scientist Christopher Jenks and David Elwood, who are experts in the formation of social policy. This is a very discouraging note to follow on, so you'd better take your flask out.

(Laughter)

They said that "Changing long-range trends in family structure is like dealing with the weather. We understand," they said, "the weather far better than we used to. But while better understanding has produced better forecasts, it has not produced better weather."

(Laughter)

They add, "For those who want to alter family structure, we can offer only one bit of advice. Treat anyone who claims to know how to do this with a high degree of skepticism."

Thank you.

(Applause)

COMMISSIONER KIRSANOW: Thank you to our panelists. I'm going to jumpstart the questioning with a few of my own. Probably the first, and most important, one that I think most of you want to know the answer to, the most profound is to Professor Patterson. How many fish did you catch in Canada?

(Laughter)

DR. PATTERSON: Some big ones.

COMMISSIONER KIRSANOW: Big ones, huh?

(Laughter)

Okay. This is to all of the panelists. The title of Professor Patterson's book is *Freedom is Not Enough*. And Professor Brooks talked about the 350 years of cheating and -- by whites, and then the black poker player says, "Well, you know, okay, you've said that there is going to be no more cheating. What are you going to do with all the chips now?"

We are now, after Executive Order 11246, Weber Bakke Grutter, 40 years into affirmative action, for example. Yet as -- I believe it was Professor Brooks made mention of the fact that the National Education for Educational Progress scores -- maybe it was Mr. Raspberry, I'm starting to lose track --

scores are now starting to expand.

That is, the disparities between blacks and whites, while stabilizing for a moment, are now expanding, so that 90 percent of black 17-year olds have the reading skills of the average white eighth grader, and the average black 17-year old has the academic proficiency of the average white eighth grader.

If, in fact, freedom is not enough, what is the prescription? Is affirmative action the prescription? What is it that you would do to, as LBJ said, get blacks and other minorities up to the starting line along with whites and, academically, Asians?

We'll start with Professor Brooks.

MR. BROOKS: Well, that's the question. I think that it is some combination of internal and external factors. And I think that that's how you have to approach it. I don't think that it -- I don't think African Americans can do this ourselves, and I don't think that African Americans can rely on government to do it. It has to be a joint project.

Professor Patterson talked about the Harlem Children's Zone and the KIPP academies. I write about that in my book. I mean, that is

wonderful, what is happening there. But the Harlem Children's Zone is really sort of like a total family makeover. I mean, it is -- they start from preschool all the way up through high school.

And there is a tremendous amount of internal pressure put on parents in the program to toe the line, and maybe that is what needs to be done. There is one theory -- delimitis separatists -- who believe that that is the only way you can resolve this, that African Americans have the primary responsibility and -- if not the resources, to do this.

So it is some combination of the two, and I would like to see more experiments like the Harlem Children's Zone and KIPP academies, as well as other experimentations.

COMMISSIONER KIRSANOW: Roger?

MR. CLEGG: Well, let me begin by saying that I don't like the poker game analogy, and let me explain why. And, actually, I think -- my memory may be wrong, but I think that our keynote speaker, Mr. Raspberry, wrote a column one time where -- and I've seen this analogy used more commonly -- where it's not poker players, it's football teams. And, you know, one football team has been cheating the whole first

half and then announces at the beginning of the second half that they are not going to, you know, cheat anymore, and is that really enough.

If I were an academic, I would characterize this as an instance of racial anthropomorphism. Does that sound pretty academic?

PARTICIPANT: It's beyond me, yes.

MR. CLEGG: In other words, it makes the mistake of thinking that racial groups are individuals. They are not individuals. They are made up of individuals, but they're not individuals. The people who are playing poker now are not the people who were cheated, you know, a long time ago. They happen to share their skin color, but they are different people, they are different individuals.

Now, that doesn't mean that the playing field is even now. It's not. The playing field is not level. But there are people of all colors at both ends of the playing field. You know, you have some African Americans who, you know, maybe their ancestors were not cheated, because they didn't come over until after slavery or they were never slaves, or whatever. And, of course, you have, you know, more poor white people in the United States than you have poor black people.

So the point I'm making is that when we talk about social programs -- and, you know, liberals and conservatives can argue about, you know, what programs are going to work.

I think it's a mistake to focus on race and have the programs be race tested, you know, rather than means tested. As has been pointed out, there are plenty of white kids now, in addition to Hispanic kids and Asian kids, you know, who are caught up in this tangle of pathology that Daniel Patrick Moynihan identified.

And so if we are going to have, you know, social programs, I think that they should be available to children of all racial and ethnic backgrounds. And, conversely, if you are well off, even if you are African American, these programs should not be something that you automatically, you know, qualify for, just because you happen to have a particular skin color.

COMMISSIONER KIRSANOW: Professor Patterson?

DR. PATTERSON: Well, I guess I already suggested that, while the Harlem Children's Zone idea and KIPP schools, and so forth, seem to have pretty good results, in fact, they not only deal with

preschool children, they also try to help pregnant mothers understand some of the problems of motherhood, which any of you who have had know are many and complicated.

So it really takes -- it really does involve a huge intervention into the lives of these families, and some of them resent it. As to what government can do, Moynihan's ideas, for instance, of a children allowance has no political prospects. It never has in the United States. Many people think that a program such as that would simply encourage people to have more babies, which in fact was the rationale for it in some countries, such as Hitler's Germany.

But you can see why people wouldn't want to give -- I agree you want to have a universalistic program which doesn't favor one group over another, but it is very hard to design any program that is available to anybody that doesn't benefit the rich more than the poor, or vice versa.

So as far as large-scale WPA works projects or employment, that, too, has rather dim prospects politically. Some of the money in the stimulus program has gone for this on a relatively small scale, but the WPA actually didn't have a great

reputation, even though it was a pretty good program, and many people regard government work as makework. It is very expensive.

It is much more expensive than welfare, for instance. Welfare, you just send a check. To provide work, it involves a whole lot of things -- planning, engineering, selecting who gets what. And this has really not had a lot of political prospects.

Also, it has been pointed out by a lot of people that the unemployment problem of blacks is not necessarily one of the non-availability of jobs. I hate to say this, but this has been pointed out by a number of social scientists, that many of them will not simply take jobs because they don't think they are good enough jobs.

So I don't see the government, again, being able to do anything about people having babies. And so this brings you back to self-help, self-improvement, but this is very hard also, as the inexorable trends, the inexorable numbers over time have shown, and tell people to shape up and not have babies. Try it.

Thank you.

MR. BROOKS: Excuse me. Can I respond to that, because I want to defend my allegory. And I

also want to suggest that the problem is not just with poor blacks, but it is also with blacks at other socioeconomic levels.

For example, one of the statistics that I gave you was that middle-class black men with college degrees are earning $20,000 a year less than their white counterparts. That's a problem. And we talk about this in terms of groups rather than individuals, well, because discrimination was not just against individuals but against groups. Nobody would stop to ask me about myself. Nobody cared about who I was individually. They cared that I was black and that I am black.

And we talk about the problem in a systemic way, because that is how it is presented. The statistics are done that way as well. But the allegory talks about cheating. If slavery and Jim Crow wasn't cheating, I don't know what you'd call it.

PARTICIPANT: I didn't say it wasn't cheating.

MR. BROOKS: Well, then, I don't know what the problem is with the allegory, because I -- because the allegory doesn't necessarily suggest affirmative action or racial preferences or anything. It is just describing the situation, describing the problem, and

then it raises the question: what do we do about the problem? What are the considerations that we take into account in order to resolve the problem?

MR. CLEGG: Well, I think implicit in the analogy -- and maybe I'm, you know, overreading it -- I mean, at some point, of course, all analogies break down. But I think implicit in the analogy is that, well, gee, this white guy should put -- should give some of his chips to the black guy.

And the reason that I'm saying that that is -- I think that's where the analogy breaks down, because the white guy is not -- that has the chips now did not necessarily cheat in order to get them. And the black guy, who is getting the chips, you know, may not have chips, because he was cheated.

I just think -- and, conversely, I think that the -- you know, you can't really design a program, Professor, I don't think, which says that, well, we are going to try to remedy this particular kind of cheating. And so, if a person is poor and can show that he can trace the poor back to a particular kind of cheating that took place, not against him but against his ancestors, then he has a claim on the chips of somebody else if we can trace the fact that they have chips back to the fact that his ancestors

cheated. That's just not going to work.

And what difference does it make? You have one poor kid who, all right, he can trace his poverty back to slavery through some, you know -- brings in a bunch of genealogists and everything. You have another poor black kid who can't trace it back to slavery. He -- you know, it's because his parents made, you know, bad life choices.

You have a Hispanic kid who is poor because his parents recently came over, you know, from a Third World country. You have an Asian kid who is poor for the same reason. You have an Appalachian kid who is poor because his parents are both alcoholics. They are all poor. What difference does it make to say that we are going to have social programs for one because their poverty can be traced to one source and social programs -- those social programs are not going to be available to the other kids? I mean, they are all poor. They could all benefit, so --

MR. BROOKS: Can I -- I don't want to interrupt you, but you're missing the point.

COMMISSIONER KIRSANOW: Let me do this.

MR. BROOKS: That's not the point I'm making. You're reading more into it.

MR. CLEGG: Okay.

MR. BROOKS: You're reading yourself into it.

COMMISSIONER KIRSANOW: Let's do this. We've got a number of people who would like to ask questions. I have one more before I will open it up to questions to the audience. Roger, you had indicated that the out-of-wedlock birth rate feeds the disparities that we see between the various races.

MR. CLEGG: Right.

COMMISSIONER KIRSANOW: And, Professor Patterson, I think much of what Moynihan was referring to in terms of the retarding effects of out-of-wedlock births on the black community -- well, going back to something you said, the out-of-wedlock birth rate for whites today is almost identical to that of blacks when the Moynihan report was issued.

Why is there not a similar retarding of the advancement of whites today as there would have been or there was of blacks back in the 1960s?

MR. CLEGG: Well, I think that, I mean, actually Kay Hymowitz, who I think is going to be on one of the future panels today, can talk about that better than I can. But the point that she makes is that the problems do face white kids that are born out of wedlock.

You know, you have this sort of disparities between classes now as opposed to between races, and, you know, you have white parts of society that are caught up in the same tangle of pathologies now that African-American families were caught up in in the 1960s.

Now, because whites are the overwhelming majority of the population, you know, you don't see -- you know, those disparities may not be as obvious. But if you look at -- you now, you control for race, but you look to see if there is a connection between children of whatever color and growing up in a home without a father, and, you know, poverty, getting in trouble at school, dropping out of school, you know, not doing well in school, substance abuse, you know, you name the pathology, there is going to be that connection between growing up in a home without a father and not doing well in life, particularly for little boys.

DR. PATTERSON: Understand that education is a big issue here. It has been estimated that only around three to five percent of college-educated white women have children out of wedlock. The percentage is higher among similarly educated black women, but not nearly as high as it is for ill-educated children -- I

mean, children from parents who are ill-educated. So that is -- it is a class issue, and education, of course, is one marker for class.

MR. BELZ: Okay. Professor, Herman Belz asking this question, and put a little bit of gloss on it. Actually, the references to group identity and cultural group identity are almost impossible to avoid. They have been relied on throughout history. It seems very natural when there is disparities to go by group identity.

Professor Brooks points to things like human capital assets, resource assets. It would be -- social scientists. Would it be possible to provide exact measurement of these things? Every three years you get regraded as to what your human assets are, what your -- but that is going to lead to a totalitarian reckoning and redistribution. That is never going to work.

The unfortunate truth is, although it is a blessing, really, I would say, that individual rights and responsibility are the only practical way to organize human life, and that starts with the family. That is very fundamental in the family, and it radiates out from there.

Actually, I am encouraged by what

Professor Patterson says, what Professor -- what Roger Clegg says, and what Professor Brooks says, because I think it has been a -- it has been fruitful discussion. And as Roger says in one of his articles, we have never, all through this affirmative action period, given up the idea of individual rights and responsibility, and we are mighty glad of that.

And thanks for the opportunity for a few questions. I appreciate it.

COMMISSIONER KIRSANOW: Let's limit it to questions. We only have a limited amount of time, so the briefer the question, the better for the panelists. Okay? Ma'am?

SAC REP. JOHNSON: You would say that just as you get to me. Hi. My name is Michelle Johnson, and I'm representing the State Advisory Commission from Kansas. And I'm a former employment attorney and a former journalist and author of three books, and I was born out of wedlock in 1964.

So, you know, one of my issues is just the use of the word "pathology" with fatherless families. And I think that we judge a group not just by how we treat the least of them in the group, but also how we treat the people who are doing the so-called right things, which gets back to what Professor Brooks was

saying.

So rather than just focusing on programs that deal with the disparity, which of course is important and is always going to happen, is there any ideas you have for dealing with the fact that there are people who have MBAs, law degrees, MDs, graduate degrees, people who are doing all the right things who are black, who are Hispanic, and yet they are still having the same pathology in terms of the outcome, because my first book was *Working While Black*, and, let me tell you, there is nothing more heartbreaking than to have people write me or e-mail me and call me who have done all the right things, and they are still treated with that same sense of disparity in terms of their outcomes.

Do you have any suggestions for that?

MR. BROOKS: You know, I think that you make a good point, because I -- again, one of the things that bothers me is when you have African Americans doing everything that we are supposed to do culturally, yet the outcomes are what you call pathological, I don't know, I wouldn't use that word to describe that, but I understand what you're saying.

I'd like to know, like from people like Roger, how do you explain that? I mean, what do you

tell an African-American male who graduates from college -- and this is not just for one year or five years or 10 or 20 or 30, it's for 40 years, and it has gotten -- and the disparities have gotten greater.

How do you -- what do you tell them? I mean, you certainly don't tell them to quit. That's -- I mean, you know, that is not what you tell them. That is not the message -- to give up.

But, well, let me ask it this way. Do you consider that to be in any way problematic, the fact that there is this racial disparity, this income disparity, between college-educated black men and white men?

MR. CLEGG: Well, sure. I mean, you know, if the disparity is a result of racial discrimination, then of course it's a problem. And I have made it very clear that I am not saying that racial discrimination does not exist. It still does exist. And I am all for, you know, bringing lawsuits against employers who discriminate on the basis of race.

I am all for -- I think it's a great thing that our popular culture vilifies racists. You know, if you're a screenwriter and you want to communicate to the audience that they are not supposed to like a character, you have them say something bigoted.

I would want, you know, with all respect, to take a look at those figures. I mean, for instance, you know, are you -- are you controlling for what the individual is majoring in? You know, people who major in one thing make less money than people who major in engineering, something like that, and, you know, all of the other, you know, variables that are there.

I mean, we see all the time this disparity pointed to in the male-female context, and it is almost always bogus. So I would want to, you know, look at those figures. But I'm not saying that it's all going to, you know, evaporate and that there isn't some part of it that is due to discrimination. And to the extent that it is due to discrimination, it is wrong, it is bad, and our civil rights laws should be enforced to stop it.

COMMISSIONER KIRSANOW: Sir?

SAC CHAIR FREEMAN: Yes, sir. I'm Glenn Freeman from Nebraska, originally from Washington, D.C. And we keep talking about progress and change. I just want to make this very short. Like I said, I left here and joined the Air Force. My mother used to clean up this building, and here I am.

But I want to go back. I want you to

1 understand that I am insulted by what is going on here
2 today. I am offended by it, because it -- you haven't
3 said anything about what the problem is. The problem
4 is, in the 21st century, is DNA. The mass majority of
5 Americans, white Americans, fundamentally believe that
6 blacks are genetically inferior. If you want to know
7 why you make less money as a Ph.D., you make it
8 because black Ph.D.s are not as smart as white Ph.D.s.
9 Now, ladies and gentlemen, I am truly,
10 truly -- and I'm going to be short -- but I want you
11 to understand that we sit here and keep talking about
12 the symptoms, and we never talk about what the problem
13 is. The problem is very simple, and we have not
14 addressed it, and I want you to know that you have
15 truly, truly insulted me here, maybe no one else.
16 COMMISSIONER KIRSANOW: Sir, do you have a
17 question?
18 SAC CHAIR FREEMAN: But let me -- let me
19 finish, please.
20 COMMISSIONER KIRSANOW: Do you have a
21 question, sir?
22 SAC CHAIR FREEMAN: When you talk about
23 poker chips, the poker chips were paid by 600,000
24 lives lost during the Civil War. You talk about
25 buying a ticket, we yet have not bought a ticket

because we do not understand, again, that we are looked upon as being genetically inferior.

MR. CLEGG: Well, I don't agree with that. I don't think that Americans are --

CHAIRMAN REYNOLDS: Well, I guess I felt compelled to respond. I guess some of the tone and some of the assumptions today reflect some of the things that I'm trying to get away from. To say that all blacks are X, and all blacks -- all whites are Y, I think that you are starting out from a flawed proposition. I -- we can't make such assumptions about each other merely because of the other person's race. I mean, if you do that, you crowd out any opportunity for, you know, conversations, understandings, discussions.

Are there whites who believe that blacks are inferior? The answer is yes. Are there blacks who are racist? The answer is yes. Do we have a history -- a scarred history here in this country because of the oppression of blacks by whites? Yes.

But at the end of the day, we have to maintain our humanity by respecting the humanity of others. And I think that we start out -- we accomplish that goal by not assuming the worst in our fellow Americans based on their race.

COMMISSIONER KIRSANOW: It's my fault, but please keep your questions -- and make them questions -- very brief. We have a full agenda today. It's disrespect to the remaining members of the audience and also to the panelists.

One observation -- it seems as if, as I indicated before, we are going to go beyond the traditional narrative with respect to civil rights. But it occurs to me that we have been talking predominantly about a black-white paradigm, which is what we have been talking about for the last 50 years in terms of the civil rights movement. Just an observation.

Yes, sir.

MR. BEITO: Yes. My name is David Beito. I'm the State Advisory Chair of Alabama also. My day job is a history professor at the University of Alabama.

Talking about defining civil rights in the 21st century and what government can do, maybe we can go back to what Douglass, Frederick Douglass, recommended in a very famous speech where he said, "Get out of our way." And one example that we found in Montgomery is where black property owners are having their homes demolished by the city of

Montgomery, allegedly because the homes are blighted, although I have seen evidence that that is not always the case.

And this is one of the most fundamental rights. It is guaranteed by the 14th Amendment, life, liberty, and property, due process. And we see, in my opinion the evidence indicates, are being routinely violated for black property owners in the name of encouraging development, not only in Montgomery, and elsewhere.

So I would like to see if there is anyone that thinks that that might be an area to move to, since we have talked about government really can't do much about the family, but it could certainly do something about this -- this kind of thing, and enabling people to just lead their lives and own their homes and make their own way.

MR. BROOKS: Yes, I'll respond to that, because I -- another example where government can do something by getting out of the way is where, for example, African Americans say, "Well, look, we need to use public funds to create schools that are going to deal with the special needs of African-American children."

But the government says you can't do that,

because it violates the equal protection clause. You can do it -- you can have single-sex schools, but you can't have single-race schools, because you paint them all the same way.

But maybe we can make some distinctions between schools which are designed to deal with the special problems of, say, African-American males, and that seems to be the root of the problem, what people seem to be suggesting anyway, and for government to get out of the way by not bringing lawsuits to suggest that, well, this is a violation of the Brown principle.

Yes, I mean, so the example you gave, there were plenty of other examples where government can make a difference, and even make a difference by just getting out of the way.

COMMISSIONER KIRSANOW: Ma'am?

MS. COOK: Hello. I'm Brooke Cook, and I'm an intern at The Heritage Foundation. This is a question for you, Mr. Brooks. I was wondering, the figures you cited how, in Jim Crow days, the disparity between white and black income was $16,000, and it has grown to $20,000 today, I was wondering if that takes into account inflation.

MR. BROOKS: Yes. It is over a 40-year

period, and it was after Jim Crow.

MS. COOK: Oh, sorry.

MR. BROOKS: Yes.

MS. COOK: And then, I was wondering whether -- what that -- has attributed to that income disparity? Is it racial? Are you saying it's racially discriminating, or --

MR. BROOKS: No. I'm saying that it's a problem. All I'm doing is describing the problem. Okay? And I want to get clarity on the problem. Again, I don't think that the -- if you define the problem simply as "racism," you don't get anywhere necessarily. If you define it as a problem of classes, and if you don't get anywhere, what I'm suggesting is that you have to clarify the problem, clarify what it is. That's the problem.

There is this long-term disparity, which is getting greater, and the question is: what sustains it? Is it something internal to African Americans? Is it something external? I'm raising the issue. I'm not trying to decide the issue.

MS. COOK: Okay. Thank you.

COMMISSIONER KIRSANOW: I'm told that we are near the end. I am going to, unfortunately, just limit it to one other question, if you can be very

brief.

MR. LaNOUE: Thank you. I'm George LaNoue, professor of public policy, University of Maryland. This is a question for Professor Brooks. You, in your poker analogy, did not play out all of the various policy implications of it. And fair enough, you don't have time to do that here.

But I want to ask you about one existing program and whether you think it fairly represents the kind of public policy that might follow from accepting the poker analogy, and that is preferential contracting programs at both the federal and state and local level where, in order to get the preferences, a business has to be owned by a socially disadvantaged person, and all minority group members -- that is, all non-white minority group members -- and all women are automatically considered socially disadvantaged from the time they are born until they die. I wonder, is that a fair application of the poker --

MR. BROOKS: It's one application, but it's not one that I would subscribe to, because the -- your question assumes that the race problem for all racial minorities is coextensive, and I don't think it is. For example, Asians, they have the highest family income and the highest college participation.

If you look at one of the statistics I have, the Asian college participation is way up here, and the whites is down here, and then Latinos and blacks. So I -- and also, with respect to Latinos, immigration is a big issue there. It may define the race problem for them, but not for African Americans. So I would want to disaggregate the groups a bit more than what your question suggests.

COMMISSIONER KIRSANOW: Okay. We're going to --

MS. PRESCOD: Will there be time for members of the media, which I am, to ask any questions of the panel?

COMMISSIONER KIRSANOW: You can ask a little bit later. We're going to have to conclude this panel. The next panel will convene in approximately five minutes, and we will deal further with family structure issues.

Let's give a round of applause to the panelists.

(Applause)

(Whereupon, the proceedings in the foregoing matter went off the record at 10:53 a.m. and went back on the record at 11:05 a.m.)

PANEL II: THE ROLE OF FAMILY STRUCTURE IN PERPETUATING RACIAL AND ETHNIC DISPARITIES

MS. TOLHURST: Okay. We are going to start Panel II now, if you can take your seats.

CHAIRMAN REYNOLDS: Okay. In an attempt to stay within the time constraints, let's get started.

In our last panel, historian James Patterson took us through the history of the U.S. Department of Labor's report entitled "Crisis of the Negro Family: A Case for National Action." Forty-five years later, the Moynihan report, as it is more commonly known, seems prophetic, predicting virtually all of the difficult challenges that we now face.

They are even reflected at -- they are reflected at lower rates, though still troubling, with Hispanic, Native-American, and white communities as well.

When Moynihan wrote his report in 1965, some 25 percent of black children were born out of wedlock. Now 70 percent of children -- black children are born out of wedlock.

Dr. Ronald Haskens estimates that, over the entire period of childhood, something like 80 percent of black children experience life in a single-

parent family. We believe that this has consequences.

Other research confirms that poverty rates for children reared in single-parent female-headed households is five or six times higher than those for children reared in two-parent homes. Interestingly, the rate for whites is now similar to what it was for blacks when Senator Moynihan first rang the alarm.

Before I go on, I just want to say this is a very difficult topic. There are a lot of sensitivities. I think that it is extremely important that we all make an effort to speak carefully and sensitively about this issue. I mean, during this conversation no one is -- no one is blaming, no one is saying that anyone is lesser than, but we are saying that, overall, statistically speaking, there are significant adverse consequences that flow from children not being raised in a two-parent household.

Marriages begin and marriages end. There are instances where marriages should end. The only thing that I am suggesting, again, is that we take a look at the importance of family, of certain families, and let's look at the consequences that flow when you have a significant portion of the population where the children are being reared in a single-parent home.

Now, after saying that, I'd like to begin

the introduction of our distinguished panelists. We have public intellectuals, an economist, and community activist. They will all discuss the relationship between family structure, race, and socioeconomic status, including the extent to which family structure and other forces contribute to declining labor participation rates and increased incarceration rates for black males. Each of these issues further erode the health of families.

We will start -- well, today we have with us Kay Hymowitz, who is the William E. Simon fellow at the Manhattan Institute, and contributing editor of *City Journal*. She writes extensively on education and childhood in America. Ms. Hymowitz is the author of a recent book, *Marriage and Caste in America: Separate and Unequal Families in a Post-Marital Age*.

This was a collection of some of her previously-published essays in the *City Journal* in which she examines the breakdown of marriage in the United States and how it threatens the nation's future.

During her career, she has written for many major publications, including *The New York Times*, *The Washington Post*, et cetera.

We also have Professor Harry Holzer, who

is the Professor of Public Policy at Georgetown University. He is also an institute fellow at the Urban Institute here in Washington, D.C. He is the former Chief Economist at the U.S. Department of Labor, and professor of economics at Michigan State University.

He has many affiliations in the research field, and I'm sure that he will bring that to bear during this conversation.

Heather MacDonald is the John M. Olin fellow at the Manhattan Institute, and contributing editor at *City Journal*. In 2005, she was awarded the Bradley Prize for Outstanding Intellectual Achievement. Her work has canvassed a range of topics, including homeland security, immigration policing, and racial profiling, homelessness, and educational policy, to name a few.

Her writings have appeared in most of the nation's top major dailies and magazines. She is author or co-author of two books on race and policing in immigration, respectively, and she has testified extensively before Congress on a variety of topics. She is a lawyer by training. She has clerked at a Federal Court of Appeals, and she has also served in the executive branch.

Our next panelist is Roland Warren, who is the President of the National Fatherhood Initiative, which is dedicated to improving the well-being of children by increasing the proportion of children that are raised with involved, responsible, and committed fathers.

He has played a key role in helping the organization establish strategic partnerships with businesses, government, and non-profit organizations across the country. He frequently appears both in print and television representing the National Fatherhood Initiative.

Prior to joining NFI, he was a -- well, he worked for Goldman Sachs, he served on the Fatherhood Task Force, the White House Office of Faith-Based and Neighborhood Partnerships, on the Coordinating Council on Juvenile Justice and Delinquency Prevention for the United States Department of Justice. He has also served as a board member for the National Campaign to Prevent Teen and Unplanned Pregnancy.

Now, on that note, we will begin. We will begin -- we will just go -- we will just go straight down the line, and we will begin with Professor Holzer.

DR. HOLZER: Thank you. Good morning. As

Chairman Reynolds said, I am an economist. I am a labor economist. I know a lot more about employment and jobs than I know about how to change marriage rates and child-bearing patterns. But I have read some of that literature, and I have written a little bit in that literature, too, and so I want to make a couple of points about that, and try to have sort of a broader view about why trends have gone this way.

Let me start with a point. It seems to me all of the speakers so far have taken for granted that single parenthood has a really negative effect on young people growing up in that family. And I'm not here to disagree with that point, but I think we need to be a little bit more subtle in our discussion of that fact.

How many of you here have ever suffered through a statistics class of some kind in college or something?

(Laughter)

Okay. If you have, you probably heard your professor say, "Correlation does not prove causation." It is a very important point. We know that bad outcomes for young people are highly correlated with growing up in a single-parent family, and we know that very large fractions of black

children grow up that way. That does not prove that the single parenthood is causing causation.

So it remains a statistical question: well, how do you sort those things out? How do you disentangle? Because, frankly, these young people bring many other deficits with them in their personal lives and face many other structural barriers. And so can we disentangle what piece is really caused by single parenthood as opposed to other problems?

It turns out it is surprisingly difficult to do that. And after decades of people trying to do that, it is surprisingly mushy how hard it is to really identify causal effects. My own view of this literature is some piece of it really is causal, but it's much smaller than the overall correlation suggests.

I will cite one well-known study by Arlene Geronimis and Sandy Korman in the *Quarterly Journal of Economics*. They did an interesting study. They compared sisters that grew up in the same families, low-income families, compared the sister who had a teen pregnancy and a child versus the one who didn't, where everything else about family background is held constant.

It turns out that the sisters who didn't

get pregnant do a little better than the sister who did, but not that much better. The differences are not as large as you would expect, because they come from low-income families with many other barriers and many other challenges, and it's those things, as well as the single parenthood, that contributes to their problems.

So, again, my point here is not that family structure doesn't matter. It does. But we have to think about it broadly and interacting with a broader range of challenges if we are going to have any hope of turning this around. That's my first point.

My second point is, okay, if you believe this is a bad trend and a bad development, what explains it? And people talk a lot about culture. And, again, as an economist, I have real trouble with culture, because I don't really know what that means. And I certainly don't know how to measure it or test it. If you talk about attitudes and behavioral norms, I do have some sense of what that means, and those clearly matter.

But where do they come from? They don't exist in a vacuum. And is it all of a sudden that people just kind of went crazy in the '60s, or were

other things going -- and maybe they did, but other things were going on as well. And here I'm actually -- my views are very consistent with what Professor Patterson said on the previous panel, consistent with Daniel Patrick Moynihan, consistent with William Julius Wilson, and a large body of evidence. I think the economic changes and the cultural factors interact very importantly.

The civil rights era, which is an era of rising expectations, has coincided with very dramatic changes in labor markets. And the truth is, good jobs have been disappearing for less-educated men, good-paying jobs have been disappearing for less-educated men, for almost the entire civil rights era. And it has hit all less-educated men. You see it for white men, you see it for Latino men, but it has hit less-educated black men very hard.

They were more dependent on those jobs in durable manufacturing, in the midwestern cities, on unionized jobs, on the whole range of good-paying blue-collar jobs that have either completely disappeared or now may exist but pay a lot less than they used to. And there is a whole literature analyzing why that has occurred -- technological change, globalization, the weakening of the

institutions that have traditionally protected less-educated workers.

All of those things together have killed off those jobs, and black men have been hit very hard by that. The jobs they needed disappeared, and then their attempts to adapt to this new labor market are hampered by a whole variety of challenges, starting with the achievement gap that we know about.

And, by the way, the achievement gap -- attempts to explain that seem to be heavily correlated with going to racially-segregated schools and living in racially-segregated neighborhoods. Not impossible to turn those schools around, but it is more challenging to have good teachers, good administrators, work in those schools. And we can talk about what that literature says.

But once we get to the labor market, there is still discrimination. There is spatial mismatch with people living in one place, and the jobs migrating to a very different place, a metro area.

There is a breakdown of informal networks that traditionally have connected people to good jobs, as these young boys growing up in these families see so many of the older males in their families, their brothers, their cousins, their fathers, disappearing

completely from the labor market and from their neighborhoods and their lives. Those networks that traditionally have connected people and the labor market are gone.

And one other thing I want to say to this, and this I think the left blames some -- takes some responsibility for this. In this country we have denigrated high-quality career and technical education. Voc ed, in its traditional form, was not very good, not very well connected in the labor market, and you can understand why people were concerned about tracking. Why do the white middle-class kids get to go to college while the minority kids and lower-income kids have to go to voc ed?

But, in fact, we have good, high quality academic versions of career and technical education, starting with the career academies -- if you've never heard of career academies, look closely at the valuation evidence. It is stunning. And they don't preclude going on to college. Kids can go to career academies, but they widen the range of options. They give people options to good, high-quality, middle-skill jobs in the labor market that pay quite well and that would expand opportunity.

My view is so many of these young people

have grown up in these families they have lost hope, because they don't perceive opportunity for themselves to make it in the labor market. And when people lose that kind of hope, that's very fertile soil for all of these other behaviors to develop.

And there is a whole process I think that occurs, not only of people withdrawing from school and from the labor market, but withdrawing from a whole set of mainstream behaviors and institutions, like marriage and like living within the law.

And you see this whole pattern of high school dropout rates, deterioration in labor force participation, along with the rise in incarceration and the rise of single fatherhood, and, of course, the rise, that means, of being identified as a non-custodial parent with a large child support order.

You all know the statistic. One-third of all young black men end up incarcerated. Among high school dropouts, that number is actually two-thirds. So it's a stunning number. If you're a young black male in this country, and you're a high school dropout, the odds are two to one you will end up in prison.

And most likely most of those men are non-custodial dads. They have -- they are in arrears on

their child support, and if you come out of prison with a criminal record, and you're in arrears, which means your earnings get taxed at a very high rate, it is almost impossible to reconnect with the labor market in any serious way.

So what does this mean? You know, I think I have about two minutes left. What does this mean for policy? And, again, I don't know how to change marriage rates and childbearing rates, but I do know something about education and employment. And I think it starts with creating the perception and the reality that there is opportunity for these young people in the education system and in the labor market.

So, number one, we start with educational opportunity. We heard a lot about Harlem Children's Zone and the KIPP academies. I like all of those programs. We have no idea if we can scale those up and replicate them, so we have to start first with more evaluation to see.

But, more broadly, we need efforts to improve the quality of teaching and the quality of curricula in segregated, lower-income neighborhoods, and we need to broaden that and bring back high-quality career and technical education, so people have a range of options, into the post-secondary world and

into the labor market.

There is efforts to prevent disconnection along all the dimensions that we talk about that need bolstering. You know, we used to have employment and education, employment and training programs for young people, and those have shriveled to almost nothing in the federal budget.

Now, the truth is, if you look at the evaluation evidence, not all of them were very good or very successful, but some of them were. And we need to rebuild our education and workforce systems. They can't continue to exist as two separate systems and bureaucracies, with the educational silos over here, the labor market silos over here never connecting.

We need secondary schools, post-secondary schools, working within a system of workforce development, so that young people see the job opportunities that do exist out there if they complete a program of appropriate study and appropriate skill building.

We need to continue efforts to reduce teen pregnancy and incarceration, but, quite frankly, we need policies that throw fewer young men in the slammer. One of them, by the way, reducing the disparity in how we treat crack cocaine versus powder,

is a good start in that direction. There is other things about changing the parole system, locking up fewer of these young men for technical violation, because that so badly scars them in terms of their future opportunities.

But, finally, some men are going to go that route, some men are going to become offenders, some men are going to become non-custodial dads. There are reforms in the criminal justice system, in the child support system, that could improve their opportunities.

We need to help them reconnect to society when they leave prison, not put additional barriers in their place as the current child support system and the criminal justice system often does. We need to raise their incentives to take even low-wage jobs.

I'll close with one last thing. The earned income tax credit, which has been so successful at subsidizing low-income moms, who go into the labor market and take low-wage jobs, we need a similar thing extended to non-custodial dads and childless adults, so that they face a better set of incentives as well as opportunities to do the right thing, connect to the labor market, and then take more responsibility for the children they father.

Thank you.

(Applause)

MR. WARREN: Good morning, everyone.

ALL: Good morning.

MR. WARREN: Geez. My gosh. More coffee needed.

(Laughter)

I need encouragement. I have low self-esteem. So good morning, everyone.

ALL: Good morning.

MR. WARREN: Ah, that's better. Now we're working.

I'm delighted to be with you today. I am President of the National Fatherhood Initiative. Just a little preamble, a core part of what we are focused on is really trying to connect fathers to their kids heart to heart, and a big part of, you know, our strategy is really focused on skill building and really helping dads be the best dads they can be by helping them develop the skills they need in order to be good dads.

As you can imagine, most of the resources out there to really focus on parenting are really designed for moms. And there is a real need. And some surveys that we have done nationally, when we

surveyed dads and asked them to what degree were they prepared to be a father when they first became one, what we found was that nearly half of the fathers that we surveyed said they didn't have the skills that they needed.

And then, we asked the question, to what degree did you feel replaced by mom or some other guy? What we found was that over half the fathers that we surveyed said they were replaceable by mom or some other guy. So if you put those two together, it really speaks to a significant issue that we need to address, particularly around this notion of helping dads feel that they've got the skills that they need in order to be good dads, which is a big part of being the kind of father your kids need you to be.

Let me just start quickly with just a definition, at least from my perspective. This is not an academic definition, because I am not an academician. But it is a way I have kind of thought about, you know, this whole civil rights issue for a long, long time.

And for me, you know, when we talk about civil rights it really has a perspective of this notion of being able to -- basically self-determination, this notion that in a civil society we

have an ability to sort of control ourselves, if we will, and to go after things, and we have an opportunity to make choices that will lead to success, happiness, fulfillment, all those types of things.

And so civil rights to me is really about this notion of self-determination and the notion that the determined self, a rightly determined self, will not be denied these kinds of opportunities.

This concept really came home to me, you know, a couple of years ago. I had rented an old copy of the miniseries Roots. Many of you probably remember that. Some of you, hopefully, are old enough to remember that. It's a 1977 miniseries by author Alex Haley. And it really was a story about, you know, sort of him finding out that he was connected to a slave named Kunta Kinte.

Well, anyway, I remember renting this video, and there is a scene in this video -- there are a couple of scenes that sort of probably most people remember. One of the scenes that people remember is probably when Kunta Kinte was first captured, and they try to turn his name to Toby, and that whole scene of, you know, being whipped to that point until he finally says, you know, his name is Kunta Kinte.

And that -- I think for a lot of people

that is a scene that a lot of people -- at least when I was coming up, a lot of African-American people kind of remembered that scene and what that meant.

But, you know, there is another scene in that movie, which I think actually sort of illustrates the point of the miniseries, and I think it leads to the -- you know, the perspective that we're talking about today. There is a scene where -- you know, Kunta Kinte has run away several times. He is caught, and each time he is caught he is basically punished until finally they cut his foot off.

And when they cut his foot off, he has an opportunity to meet Bell, who is one of the other slaves, and she nurtures him and brings him back and gets him a job driving a carriage for the master, because she knows he has this desire to run.

So one day when he is putting the horses away, he hears a beat on a drum, and he is -- he said, "Well, that's a slamming beat." And he hears this beat, and he follows this beat, and he finds there is an old African man there who also is a slave, and he says, "That beat, I remember that beat, it's the beat of my people." And it turns out that they were in -- you know, in tribes that were similar to each other, and that's where they remember the beat.

And the old man tells him, he says, "Listen, on a certain day, this beat is going to play, and that's going to mean that we're going to run." So he runs back and tells Bell about, "Hey, I saw this guy. He's got this slamming beat." And Bell says, "Oh, my gosh." "What? What?" And she says, "Well, you know, my first husband, he got -- you know, my first husband, you know, he was killed."

And then, he takes Kunta Kinte's hand and he puts it on her stomach and lets her -- him know that he is about to be a father. And so Toby says -- you know, I mean, he says -- Kunta Kinte says, "I'm not going to run. I'm not going to run."

So, anyway, you fast forward, the baby is born, and they have this tradition where they are going to take the baby out into the night air and kind of dedicate the baby. So Kunta wraps the baby up and takes him out into the night air. And as he is lifting the baby up into the air, what does he hear? The beat.

Well, Bell hears the beat as well. She comes running out of the house. Kunta Kinte brings the baby down, he wraps the baby up, and you get this sense of what is going to happen. Bell runs towards Toby, Toby runs towards Bell, they meet in the middle

and she says to him, "The drums, the drums. You ain't going to run, is you? This is your home."

And he stiffens up and says, "This is not my home." And he is absolutely like determined, "This is not my home." And she just -- kind of just melts into a puddle of tears. And he says, "But this is my child, and we're a family."

And he wraps his arm around her and walks her back into -- walks her back in, and then begins to tell his daughter, whom he has named Kizzy, the story of their history.

Now, for me, that's an important point, because it is the Kizzy of Kunta Kinte that Roots is all about. It is his ability. Here is a man with no social rights, economic rights, no civil rights, but took the one thing that every man has the ability to do, this notion around self-determination. That's a civil rights movement right there, when you have that ability to stay.

And I guess, in terms of the work that I do, you know, the stats and all the other stuff, at the end of the day, you know, to me it's about individuals making a certain decision that the government can't take from you, slave -- nobody can take from you, because you can decide within yourself

that "I am determined to stay." And from my perspective, that's what this is about.

So, for me -- so what does it have to do with the whole civil rights thing? For me, I really think that, you know, when you look at the stats, I mean, a part of this, certainly there are lots of other issues that are there, but I can tell you as a guy who was a teen father who grew up with a single mother, heard the drum beats many, many, many, many times, that this notion of being able to stay, and determining to do that, is one of the most powerful things.

And I think, from a cultural perspective, I think that that's part of what the challenge is, that that drum beat is not happening. See, my boys -- I have two sons. They learned -- they heard that drum beat from their father, because that's what I communicated to them, because it's difficult to be what you don't see. It's difficult to be what you don't see.

And, you know, the stats, you guys know them in terms of the marriage rate and all those kinds of things. And I think it's really important that, you know, from a cultural perspective, that we are communicating this message because it is a powerful

one.

We have got, frankly, a powerful message even in the White House. I mean, I think that, you know, this whole notion that, you know, the -- you know, the President being a different father than the one he had. Well, it's because he's married to Michelle. See, if she was in the White House and he was in the outhouse, they wouldn't have that -- he wouldn't have that connection. And I think that that's critically important.

As I close, just to return back to the Kunta Kinte story, I thought it was really interesting. There is a memorial in Annapolis, Maryland. It is the Kunta Kinte Alex Haley Memorial, and it is interesting when you look at the inscription on that, because it says, "The strength and the perseverance of our ancestors," such as Kunta Kinte, "teach universal lessons, including survival through faith, strength through family, and wisdom through forgiveness."

Let me just pull out the strength through family. See, to me, from my perspective, it's the strength through family, particularly in the African-American community that I am talking about, is really what got us through slavery and Jim Crow. And I

1 believe -- I believe sincerely that it is that
2 strength through family that we must recapture again.
3 Thank you very much.
4 (Applause)
5 MS. MacDONALD: Thank you so much,
6 Chairman Reynolds. And I am very honored to be at the
7 U.S. Civil Rights Commission. I never thought I would
8 have such an opportunity in my life, and to be with
9 such an extraordinary panel.
10 I am delighted as well to see that there
11 seems to be an emerging consensus already at this
12 conference about the crucial importance of family
13 breakdown in understanding the black situation today.
14 So rather than sort of repeating on a more
15 general basis that -- on that topic, I thought I would
16 give a case study of one city, of where I think these
17 issues can be seen very clearly, and that's to talk
18 about youth violence in Chicago and the political and
19 media response to it.
20 And I think that response is emblematic of
21 our society's refusal to acknowledge, much less
22 address, the most important factor behind inner-city
23 crime.
24 Last September a cell phone video of a
25 group of Chicago teens beating a fellow student to

death went viral. The press reported extensively on the beating, because Chicago's bid for the 2016 Olympics was at that moment hanging in the balance, and because Chicago was so closely associated with the Obama administration.

The media ignored the most interesting part of the story, however, the fact that the killing occurred in the very south side neighborhoods where Barack Obama had so famously worked as a community organizer in the 1980s, in Roseland and Altgeld Gardens. Had the press deigned to take note of that fact, it might have uncovered a tragic pattern of myopia regarding the primary cause of urban violence.

When Obama arrived in Chicago in 1984, youth killings were already a way of life. Obama personally observed two young boys casually shooting at a third, he tells us in his autobiography. In 1987, 57 Chicago children were killed by gunfire.

But neither Obama nor the political establishment had either the insight or the courage to address the most important context of the spiraling youth violence: family breakdown. Seventy-five percent of Chicago's black children were born out of wedlock in 1984.

While media reports on youth violence

occasionally mentioned the mother of the perpetrators or the victim, it was absolutely taboo to ask, "Where is the father?" That taboo continues unchanged today. The Chicago chapters of Obama's autobiography are virtually devoid of adult males, but Obama never makes the connection between the disappearance of the father and the social dysfunction that was engulfing Chicago's south side.

When Obama sees boys engaging in vandalism, he asks, "Where are the social workers or politicians who will take care of them?" not "Where are their fathers?" Not surprisingly, Obama's effect on the south side decline was exactly zero.

Now, I do not mean to single him out for special criticism. He was no different from any other community activist then or now, or politician for that matter.

The pattern of youth crime that was already well-established during Obama's Chicago years in the 1980s continued through the next two and a half decades. In 1994, an 11-year-old member of the Black Disciples gang killed a girl while shooting at and paralyzing a rival gang member. The 11-year-old's gang associates then executed him to prevent him from testifying in court. As always, all the perpetrators

came from single-parent homes.

And so it was with the Derrion Albert beating last September. The 35-year-old mother of the 18-year-old who stomped Derrion Albert on the head while he was lying on the ground unconscious told me that her son's father was "not ready to be a strong black role model in his son's life."

The younger brother of that 18-year old assailant has a different father. He, too, is absent from their home. The father of Derrion Albert, the victim, saw Derrion once, the day he was born, and not again until Derrion was lying in the casket.

Needless to say, no one in the media or political class noticed this pattern of family non-formation. It means, however, among many other things, that many children in Chicago are now uncertain about the extent of their family ties. One girl whom I spoke to in Roseland thinks she has 10 siblings by five fathers, but she was not quite sure.

Every city in America has a strong connection between race, illegitimacy, and violent crime, and I am going to put aside for a moment Harry Holzer's quite legitimate questioning of whether we are talking about cause or correlation.

In Cook County, the black illegitimacy

rate is now up to 79 percent, so, Professor Patterson, it can go higher, unfortunately, than 73. And presumably the black illegitimacy rate in inner-city Chicago would be higher still.

In Chicago, black youth commit 78 percent of all juvenile gun assaults, though blacks comprise just 35 percent of the Chicago population. The white illegitimacy rate in Cook County is 15 percent. White juveniles commit under three percent of all juvenile gun assaults in Chicago, though whites are 28 percent of the city's population.

This disparity is identical in New York. The black illegitimacy rate is over 78 percent. Blacks commit 80 percent of all shootings, though they are 24 percent of the population. The white illegitimacy rate in New York is seven percent. Blacks commit less than two percent of all shootings, though they are 35 percent of the city's population.

Nationally, the black illegitimacy rate is around 71 to 73 percent. Black males between the ages of 14 and 17 commit homicide at 10 times the rate of white and Hispanic males of that same age combined. We are not going to solve the black crime problem unless we can reconstitute the black family.

There is no more powerful cause of

violence, academic failure, and lack of socialization than in the breakdown of marriage. And I would respond to Professor Holzer that the issue is not so much the individual child growing up, having -- being a teen parent or not, but growing up in a culture where marriage has disappeared that would affect one child and the other identically.

The tragic effects of a culture of illegitimacy are not limited to the effects of a father's absence in any individual child's life. The greater problem comes from boys growing up in a culture where men are no longer expected to raise their own children. In such a world, boys fail to learn the most basic lesson of responsibility. Marriage civilizes men.

The necessity of wooing a spouse later in life requires boys to develop bourgeois habits of self-discipline. Freed from that necessity, boys never need to become reliable breadwinners and stable adults. There is no greater handicap that affects black children's life -- life chances than the fact that they are overwhelmingly more likely than the children of any other racial and ethnic group to grow up without a father, and to grow up in a world where marriage has disappeared.

And I would suggest as well that that affects the work prospects as well, that they have not developed those bourgeois habits.

We could give every fatherless black child his own social worker and a government check, and we still wouldn't eliminate the crime and achievement gaps. For a while it seemed like the candidate Barack Obama was -- knew this, too. Speaking on Chicago's south side in 2008, he addressed the connection between fatherlessness and youth violence. "If we are honest with ourselves," he said, "we will admit that too many fathers are missing from too many lives and too many homes."

And, yet, when President Obama dispatched Attorney General Eric Holder and Education Secretary Arne Duncan, to Chicago in October 2009, in the hope of diffusing the PR crisis of the Derrion Albert shooting, these two administration officials brought only the usual nostrums about a hazy collective responsibility for youth violence and the promise of more federal spending.

What I would do is to spend every waking moment of our public policy discourse trying to revalorize fathers, and this will require taking on the National Organization for Women, as Professor

Patterson suggested. They hadn't yet arisen when Daniel Patrick Moynihan wrote his groundbreaking report.

We need to be able to say that, yes, there are fantastic, courageous single mothers who are able on their own to raise law-abiding, civilized boys. But, on average, boys need fathers. And a culture needs to recognize the importance of fathers, and this is going to require taking on the feminist myth that women can do it all.

Thank you very much.

(Applause.)

MS. HYMOWITZ: Well, as you are about to hear, we girls at the Manhattan Institute think very similarly. So you will be hearing some of the same kind of thing from me as you just heard from Heather.

I want to reiterate a point she made at the beginning that is nice to hear and to see, this interest in family structure. I have been writing about it for quite a while, and believe that it is absolutely central to the future of black America.

Now, Harry Holzer raised the question of whether there really is a connection or a causal connection between family structure and racial disparity. It is, I agree, difficult to finally

determine that just from social science.

But let's just remind ourselves of what the social science has said. It has said that kids in married couple families -- and, by the way, this is not just about blacks at all -- that kids in married couple families get better grades. They are more likely to graduate from high school. They are more likely to go to college, to graduate from college. They are far less likely to be poor, to abuse drugs, and to commit crimes, to get pregnant at an early age, and to become single parents themselves.

These benefits are true for kids when you control for the family income, for mother's education, number of siblings, and when you control for race.

What else have researchers discovered? Well, they have found that, on average, married men work more hours, they make more money, and they achieve more seniority at their jobs. They have shown us that married people are healthier and live longer. And, no, it's not, as the old joke has it -- married men and women actually live longer. It doesn't just feel that way.

(Laughter)

So why? Why is there this connection between marriage and child outcomes, and adult

outcomes, for that matter? Now, experts have had a few ideas about that. One of them -- and this is the idea that I think is shared by most people -- is that -- is what I call the strength in numbers theory. And it makes some sense. Let me explain it to you.

Married couples have two incomes, they have two sets of hands and eyes, two brains to problem solve when little Johnny is approaching his second birthday and still waking up three times at night. Strength in numbers; it makes sense.

But there is a problem with this theory. Children in step families also have those two sets of hands and eyes, but their outcomes are not much different, according to the research, than those from single-mother households.

They do -- they are less likely to be poor. That's true, probably because they have the benefit of two incomes. Still, they have similar rates of problems in school, problems with drugs, early sexual activity. They are less likely to graduate from high school and college than kids growing up with their own two parents. So the strength in numbers theory only takes us so far.

I would like to suggest that we think about this in a different way. That is, the question

of why marriage matters, and why marriage matters particularly for children and for men. It is not the individual couples per se. It is the idea of marriage, or what Heather referred to as the culture of marriage.

And here I'm going to get all anthropological on you for a second. Marriage is what anthropologists call a human universal. It exists and has existed in every known human society.

Let me amend that for a minute. It doesn't just exist; it is the norm. That is, it is the way that people define growing up, becoming an adult. It is what society expects from them. And I think what happens as a result of that is that marriage is the way that societies provide a map of life and models of behavior.

Now, as Heather pointed out, this is particularly important for men. The marriage idea, the marriage norm, carries with it the presumption that a couple is committed to each other, that they will be faithful to each other, that they will raise their children together.

Now, women who bear and nurse children have a natural connection to their offspring. But marriage is the way cultures have announced that men

are also tied to their children, and tells them what their responsibility towards them are.

I don't need to remind you that people today are frequently failing to live up to these norms. Nevertheless, by walking down the aisle, by getting married, people are saying, "This is how I aspire to live. This is what I value."

Now, let's think of marriage as a map by imagining two different 23-year-old men. They both happen to be named Joe. Joe number one lives in a world where marriage continues to be the norm. He assumes, though he doesn't think about it very directly at 23, some day he will marry. He is probably not very conscious of it. He is not walking around and saying, "My name is Joe, and I subscribe to the idea of marriage." He may not think he is going to get married until he is 40. He may not even think he is going to get married until he is 50.

He may be terrified of ever getting married, but he walks around with the notion deep in his brain that being part of a family, having children, means getting married.

Joe number one has been dating Carol for a few months. As someone who expects to marry before having children, he finds himself considering several

questions. Am I serious about that woman? Is this someone I could imagine being with for the rest of my life? Will she make a good mother? Will my parents like her? Oh, and how will I help support this woman and the children we might have together?

Sadly, Joe realizes that Carol is not "the one" that he wants to marry, and, after a few more months, or maybe a year, because he thinks he's young, he breaks off the relationship, or maybe she does when she realizes he is just not that into her. The relationship is over, and they move on.

Joe number two, also 23, grew up without the marriage map. He does not know that about himself; it's just the way his life has been. His mother never married his father, who was only an occasional visitor in his life. His aunts and uncles never married. His friends are not married. No one has ever talked to him about marriage.

Joe number two has also been dating Carol, Carol number 2 -- different Carol -- for a few months. He is not asking questions like, am I serious? Is this someone I could imagine being with the rest of my life? Will she make a good mother? Or -- and he is also not asking, how will I support this woman and the children to be?

Instead, he is what one sociologist has called in a state of drift. He lets things happen, and he and Carol have a baby boy together. And it seems pretty nice at first. He adores his son, he buys his Pampers, takes him to the park, but soon he and Carol number two are fighting a lot, and he has been eyeing a pretty woman named Betty, who he sees in the same park he takes his son to. She is there with her two-year-old daughter.

I don't need to tell you how this story is going to play out. As the marriage idea has faded, multi-partner fertility, as the experts call it -- that is, having children with more than one man or woman -- has become commonplace.

Now, Roland referred to men whom he has interviewed who feel replaceable. Well, in a sense they are. I think the absence of that map poses a special problem for men, and I think it explains something about the difficulties black men are having in school, in the labor force, in the criminal justice system, and in their role as fathers.

Women have children to take care of. Young black single mothers who go back to college -- and there are an increasing number of them -- almost always cite their children as the reason for their

ambition. They want to give their children better lives and provide a good model for them.

Without marriage, men become outsiders to family life. Without marriage, men's connection to their children is fragile, and their responsibilities vague. Why go back to school? Why study in the first place? Nobody needs them.

Harry Holzer talked about the loss of hope, the feeling of no opportunity among men, because of the decline of good factory jobs. I wouldn't disagree, but I would also add that the real lack of hope has to do with the fact that they have no social role to play in the family.

Thanks.

(Applause)

CHAIRMAN REYNOLDS: I'd like to thank members of this panel. I thought that the comments made were outstanding. I would like to open this up with a question for Kay. Yes, Kay, this is directed at you.

How do we go about resuscitating the ideal of marriage in black communities? I mean, it seems that -- I'm not sure we have ever faced this type of problem before. I mean, the closest that I can get is Irish, the turn of the 20th century, Five Points, New

York. But how do we do this? And also, who does it? Who takes the lead? Is it the government? Is it the church? Is it other community-based organizations, like Roland's? So I toss that out for you.

MS. HYMOWITZ: Well, gee, thanks a lot. Isn't that the subject of the next panel?

(Laughter)

Aren't they going to solve that problem?

You know, I'm joking, but it's really an impossible question to answer finally. I think one thing we have to do, the first thing we have to do, is make this a primary topic of discussion in our policy world even if there aren't specific policy answers to the problem.

As Heather was pointing out, this has been a topic that people have really shied away from. And, as you mentioned when you started the panel, it's a very delicate topic. So it is easier to not talk about it, and there does seem to be an assumption that we are blaming -- by talking about it we are blaming individuals.

I don't see it that way. I see this as a cultural problem, and I am willing to define it for you. I see this as a problem with norms, with trying to create a sense of consensus about this topic. And

how do you put norms, how do you change norms deliberately? Through -- you know, there have been stories in history where it happens through religious revival. Can that happen now? I have no idea. But the first thing that has to happen is there has to be an honest discussion, open and honest discussion, of the sort that Moynihan tried to start many years ago.

CHAIRMAN REYNOLDS: Okay. Professor Holzer, you started out by noting the gaps in data and this confusion over correlation and causation. There are times where the social scientists, social science, has to catch up with mother wit.

I think that many of us -- many of us see a problem that flows out of these families that are missing an important player -- the father. In terms of that despair that you mention, and men dropping out of mainstream society, I know that you crunch numbers, but I also know that you have accumulated a fair amount of wisdom over the years in this area.

Do you have any thoughts on how to get the men back into a family setting? And, Roland, this is a setup for you, so it's coming.

DR. HOLZER: Yes. You're right. I mean, just because the social scientists haven't proved it statistically doesn't mean that it is not true, that

this isn't. And I don't want to sit here and argue that it's not true. I think in all these things, all these hypotheses, if you are going to be -- you know, and Kay quoted some studies that control for this and control for that. And, in fact, the effects get a lot smaller once you control for this, and there is a lot of things they can't control for.

But it's a dead end to kind of sit and just sort of wait for it. I think there are some things we can all agree on, and I think -- I make some statements that I think none of the four of us would disagree with. I think responsibility and self-discipline are very important in life. We want to teach our kids that. I don't know how you teach about responsibility without having it go hand in hand with opportunity.

I don't know how any of us in our own lives would have developed a sense of responsibility if we didn't see a pathway that that responsibility is going to be rewarded. Incentives do matter at the end of the day. And if people feel that there is no path forward for them, that's not a world in which responsibility grows. You have to have the belief that it is going to lead somewhere.

And our current -- and by the way, so --

and the young women meeting those young men don't regard them as being marriageable material, in the words of William Julius Wilson. These young men who have never held a steady job for very long, face only the prospects of very low-wage, unstable work.

So the whole thing, teaching responsibility without having the opportunity component, is a dead end. But we have to have both, and I think, you know, these gaps start very early in life, you know, before children set foot in kindergarten, coming out of low-income and/or minority families, they are already way behind in terms of achievement, and the schools exacerbate that gap.

So, again, I think if we can all agree that both opportunity and responsibility go hand in hand, and the message going forward is how to improve both of them, if we can all agree on that, then that creates the beginnings of a path forward.

Okay. How do we enhance that opportunity? Starting early. How do we prevent those achievement gaps from opening so early in life? By the time these young people then become adolescents, and they become much more susceptible to the cultural messages that both of you have so ably described, we have to have a counter message, say, you know what? You can take

this path. You can become -- to get a health tech job that pays 50, 60 grand a year. You can become a machinist.

You can go to college and get an appropriate degree or certificate, and, by the way, your odds of completing that are much better if you behave responsibly in your personal life and in the lives of your partners. And then you have a package, to me, that starts to make sense and a message where all the key components are there, and the appropriate policy pieces can support that message. I think that's the right way to think about it.

MS. MacDONALD: Can I just respond briefly? I think those are very interesting and important points, Professor Holzer, but it seems to me that you keep importing into your analysis precisely the behavioral issues that one could use to counteract your charge, if I can simplify it, the sort of William Julius Wilson argument that we have to look first at jobs and the economic picture to start explaining the breakdown in culture, because you say yourself that the disparities begin by the time the child is three years old. This is long before that child has any sense of what you would claim is an inadequate job picture.

So I would say that the problem begins in the culture of child rearing. And the fact that young boys, you say, have not held steady jobs, again, that may come from the fact that they have not developed those bourgeois habits of self-discipline. We have in many cities today a very powerful control group, which is immigrants, who come with less financial capital than many blacks today, and yet they are finding jobs.

Now, these are often off the books, but Asians that come with very little money find those jobs and are climbing the economic ladder. So, again, I would just push back on any perspective that says the problem is jobs. There is now -- there are scholarships galore and preferences for blacks, rightly so or wrongly so. But there is not a single college today that isn't desperate to get as many black students in it as it can. There is not a single corporation today.

So those pathways of opportunity, I would say, are there. Society is bending over backwards to bring people in, but they don't necessarily have the social capital to take advantage of them.

DR. HOLZER: Can I respond now?

CHAIRMAN REYNOLDS: Yes.

DR. HOLZER: There once was a world where

young men without college degrees could make it and do well, and that was the world in which stable families often flourished, when men faced the opportunity and the option of finding a good-paying job.

That world has largely disappeared, and, yes, there are scholarships and affirmative action, and those things are very nice. But if you are a young man, number one, reading at the eighth-grade level or the sixth-grade level in twelfth grade, and, number two, seeing no jobs anywhere in your neighborhood for a person with your skills, these sound like empty ideas, because people really don't see those pathways when they are in that situation.

And, again, you are talking about young men who haven't seen any of the men in their families, neighborhoods, or communities, getting these jobs. So they don't really see where it is going to come from.

And the immigrant cases are very interesting. I'm the child of immigrants, so I think that's a whole different situation. Immigrants have hope of across generations making it, and there is a very strong road map. And not all of them do, by the way. I mean, Mexican Americans, for instance, two to three generations out, still lag behind pretty significantly.

So the immigrant experience isn't all, but it is very different, and employers actually prefer immigrants in these low-wage jobs, because they think the immigrants are so happy and so -- and, of course, if you grew up in Guatemala or some other -- a minimum-wage job in the United States looks very, very good, and it is going to motivate you to work hard and, you know, it is going to give you that sense of opportunity.

If your family has been here generations, and that is the best you see, it's not going to motivate you in the same way. So I think what we can infer from the immigrant experience for these families is fairly limited.

MS. MacDONALD: I have talked to many employers in the inner city. They say, "The one thing -- the only thing we want is work ethic. We want somebody that will show up every day on time. I am willing to train them. They don't have to have many skills." There are little tiny factories throughout New York City that are desperate to find people that they can just rely on, and I think that's probably what immigrants bring more than anything else, is a fanatical work ethic.

DR. HOLZER: And those are all almost

exclusively --

CHAIRMAN REYNOLDS: Okay.

DR. HOLZER: -- low wage jobs --

CHAIRMAN REYNOLDS: All right.

DR. HOLZER: -- that pay almost nothing.

MS. MacDONALD: And they work and they --

CHAIRMAN REYNOLDS: Okay. I'm going to have to step in between you two, at least for the moment.

(Laughter)

Mr. Warren, your organization does great work. This message of stay, how do you go about delivering the message, and can it be replicated? So start off by telling us what you do.

MR. WARREN: Okay. Well, I -- you know, as I think I kind of alluded to at the start, I mean, our whole strategy is really focused on this notion of helping fathers have a more holistic view of what they -- what their role actually is.

And I think, you know, candidly, just going back to this marriageability argument, I mean, I am newer to this game probably than many, but, you know, when I first started doing this work and I heard that word I had never heard it before. I don't know if other, like, normal people ever use that word at

all.

(Laughter)

So, but I -- so what is it? And when I got the definition of what it was, it was all defined around economics. So, guys, marriageable -- if he has got a certain economic capability, that doesn't make a guy marriageable. I mean, if that was the case, then professional athletes would be the best husbands in the world.

(Laughter)

You laugh because you know -- because they have got the economic piece, but it is the culture that many of them come from that doesn't -- you know, that doesn't lead to that.

So I think that that -- so marriageability, in my view, has to be defined to be a much broader word that includes the kinds of things that we are talking about -- skills around -- relationship skills, communication skills, parenting skills. That is what marriageability is about, not just the ability to bring a check.

And I think as long as we continue to talk about this issue in that context, we will continue to tell a guy, particularly a guy who is unemployed or underemployed, you have no role here. And so part of

my strategy has been, look, you've got to talk about what good fathers do in a much broader sense. They do three things. They provide, they nurture, and they guide -- provide, nurture, and guide.

Guys get the whole provide stuff, that the culture is wired around it, it is communicated in every single place you find it. Guys get that, whether they have jobs or not, and I think a lot of guys who kind of go underground and don't engage on the parenting side, it's because we have a whole culture that tells them, if you don't provide, then you bring nothing to the table but that, so, therefore, you have no reason to be involved, and it's easy to see you're replaceable.

But if you broaden what -- and, really, I mean, not even broaden this, but what good fathers will do -- they nurture, that's about connecting heart to heart, having those skills that you need in order to be a good, effective parent; and if you guide, which is about instilling values in your kids, that are in the best interest of your kids, and in the best interest of society at large.

So even if you are unemployed or underemployed, you still have the ability to do those other things. And, to the degree that you do those,

those are the things that affect the outcomes of a kid. I grew up without a dad.

I don't know if he paid child support or not, but I know he wasn't at my football games. I know he wasn't at this, I know he wasn't at that. That's the stuff that got -- you know, got me to leave the lucrative world of Goldman Sachs for the lucrative world of non-profit management, you know, dealing with that issue. All right?

(Laughter)

So, you know, and so I think that that's part of the problem that we have.

I just want to make one other point, and I don't know where this sits in terms of this whole debate. But, you know, guys are pretty concrete creatures. I mean, we just are. We like stuff to be defined and laid out.

And I think one of the challenges that we have -- and I think this is -- that comes with this whole notion about marriage and relationships, part of the problem is that there is not a definition of what that is.

Like, I'm here in Washington now, and I'm not a Washington person, but I -- so everybody is talking about healthy relationships versus healthy

marriage. Well, what is that, healthy relationship? I don't even know what that means. What does that actually mean?

Like, if you tell me a healthy marriage, there's a whole script, because if I've got a healthy relationship, does that mean I sleep with other women or not --

(Laughter)

-- if I have a healthy relationship? Does that mean I should maybe take a lesser job so that you can move forward in your career? Does that mean I save towards your retirement? Does that mean I should care about what your parents think about me? Does that mean I should raise my kids that the -- I have no idea. But these are all questions that anybody who has sex with somebody else has to answer at some point, if a child comes out of that process.

So words mean stuff, and I think part of the reason we are seeing this erosion, it is not defined. It is not defined in a way that people can get their arms around it. And I think, honestly, that is the biggest problem around the marriage thing.

And going back to this whole notion about, you know, labor with opportunities, I get that. Again, I go back to the Kunta Kinte thing. I'm like,

what was the opportunity that he saw? I mean, just think about that. But he knew what a script was in terms of what it meant to be married. It was defined. And it was those seeds that were planted then that gave us this reality, and that is why I am very focused on that, because that is very doable.

And I will say this one last point. My mother, you know -- my mother was a teen mom, and they got -- you know, they were married, and they got divorced very early on in the process. But one of the powerful things that my mother did, which I didn't even realize was even happening until much later in life, is that she never denigrated the institution of marriage, even though it didn't happen for her. She instilled in me the importance of that.

So when I got my girlfriend pregnant, right -- I'm not sure how at this point, I'm still working on that whole piece, but --

(Laughter)

-- allegedly it took place. I love my wife, and we've been married for 30 years. We've been married for 30 years. When I got her pregnant, in my script was this whole notion of marriage, because my mother instilled that in me. So people get all twisted, because it's like, well, I'm not married,

so -- kids sit in a chair, and across from them is somebody, or nobody, but -- who communicates a set of values.

So even if marriage hasn't worked out for you, and it is not -- your kid still is going to have to make a decision about this. And I haven't met anyone yet -- and like I said, my mom was a single mom. I haven't met anyone yet who said, you know, my hope and my dream for my daughter is that she will be a single mother. In fact, every shiftless guy that I meet, I introduce him to her, in hopes he will get her pregnant and leave her.

(Laughter)

I'm just saying. I have not met that -- are you here? Because I want --

(Laughter)

So if that's not what we want, then we need to be communicating that. Yes, okay, yes, your dad and I were not married. Understand it, but let me tell you about this institution and what that means. I don't want you -- and so you see a young boy that goes through the process, and that -- and when I talk to single moms I say, okay, what kind of fathers are you going to be?

Well, first off, most of the time folks

haven't even thought about it. Nobody ever talked to me one minute about what kind of father I was going to be.

CHAIRMAN REYNOLDS: Okay. Hold that thought.

MR. WARREN: I'll keep talking, because you know me.

(Laughter)

I'm done.

CHAIRMAN REYNOLDS: Ms. MacDonald, your discussion of the linkage between -- the connection between the lack of fathers and crime -- I find interesting. I was sitting down thinking about my own son, and, I mean, if we teach our boys roles, whether these are formal lessons or not, and we teach them, among other things, we teach them when it's appropriate to employ violence, and we teach them -- in most cases we teach our sons that violence is not one of the first tools in the toolbox that you reach for. There are defined, limited instances where society as a whole, and fathers in general, will tell their boys that it is okay.

Having boys, though, that don't get that lesson and don't get that reinforcement, well, you are suggesting that it results in out of control crime

rates involving young men. So that's the challenge. If the father is not in the home, if the message doesn't come from the family unit, if the message is not coming from the community, how is that message introduced, this message of restraint, this conversation and lesson over violence, when it's appropriate, and when it's inappropriate?

MS. MacDONALD: Well, I think -- I'm a big fan of the Boy Scouts. I think they are a totally unjustly maligned group and one that is just ignored, and there are other possible organizations out there, but they work to instill a code of valor and manliness and a belonging.

And the inner city troops that I have attended just break your heart in the beauty of this effort to give kids a sense of aspiration and structure and looking up to their scout master. So there are organizations out there that can, I think, work as a remote surrogate for paternal discipline.

But, again, I would emphasize it is not just the lack of -- for any individual boy that his father is not at home, and we have heard the sort of standard conceit that boys then, growing up without a father, will tend to gravitate, say, towards gangs where they can get that kind of surrogate male

authority, but, again, the problem is not just the boy doesn't have a father, but he is growing up in a world where marriage is not assumed.

And this gets both to Kay's script and Roland's script, which is that all those moments of trying to think about, how do I make myself attractive towards a woman, how am I going to be a breadwinner, and the support and nurturing that Roland talks about, they never have to think about that. And so the natural unruliness of males and the desire to live for the moment never gets restrained towards a future goal of marriageability.

I would also add to Kay's point, and your question about how do we start valorizing this, you know, we -- this may seem just grotesquely naive, but we have changed some mores that are far less important, obviously, than marriage, but today, my gosh, how many campaigns are there against teen smoking.

And this is a problem. I agree teen smoking is a bad thing. Ideally, we don't want teens to smoke. But I would argue that it is trivial in comparison. If you just want to talk about health risks, look at the rate of death by homicide among black males just is astronomically higher than death

by lung cancer.

CHAIRMAN REYNOLDS: Heather, I'm sorry, but I have not been good with the time.

MS. MacDONALD: Okay.

CHAIRMAN REYNOLDS: So I'm going to have to break in at this moment.

MS. MacDONALD: Public campaigns -- I would just argue we should have -- every subway in New York should -- if they are going to have a teen smoking, have something valorizing fathers.

CHAIRMAN REYNOLDS: Okay.

MS. MacDONALD: I think we can start changing values that way.

CHAIRMAN REYNOLDS: Okay. Let's start with some questions. You're up first.

SAC CHAIR MONTOYA: My name is Velma Montoya, and I am chair of the California Advisory Committee to the Commission. My question is for Heather and for Kay. What is currently financing this fatherless culture? Something has changed between the Moynihan report and now. Professor Holzer suggests a big role for the earned income tax credit. And how would you modify these incentives?

MS. HYMOWITZ: Well, there are those who argue that it was welfare that financed the rise of

single motherhood. And, you know, there is something to that, but we had welfare reform, and some of us -- and I include myself in this number -- thought that maybe this would change marriage rates. It has not.

The assumption was that women, once they found that they could not rely on government money, on public money, would look at men a little more carefully, the men that they had children by, more carefully as potential providers. They did not do that. They did go to work for themselves and did fairly well, at least on average. There are some problems still at the margins.

But so the answer to that is, you know, we have had this enormous shift in the economy that Harry has referred to, which has made it possible for women to have opportunities out there that they never had before. And in some ways a lot of the jobs that have opened up are more female-friendly than male-friendly, so, you know, that is part of what we're seeing now, I think, is that the -- what's financing single motherhood now is the service economy.

CHAIRMAN REYNOLDS: Okay. Next?

SAC CHAIR WILSON: Thank you. My name is Richard Wilson. I am chair of the Connecticut SAC and a professor of social science in the UConn Law School

in Hartford.

And we have heard all morning a strong assertion of the correlation, or even causation, relationship between family structure on the one hand and educational attainment on the other. And I'd like to ask you to consider the evidence to the contrary.

As Professor Patterson mentioned this morning, in western Europe there has been a strong increase in the children born out of marriage, and yet a corresponding increase in educational attainment. So math scores in the United Kingdom, Netherlands, Denmark, have been going up, and marriage rates have been going down.

This suggests to me that family structure is not the only factor, and not the most important factor perhaps, and we should look at the things around supporting the family that goes on in the western European social model. For instance, there are very good public schools, there is universal health care, there are unemployment benefits, and there are a range of government programs which provide security and stability for parents, be they single parents or not, which support the family.

Now, unless you are going to look at those kinds of programs -- and I would argue it is always

cheaper to educate than incarcerate -- but unless you are going to actually spend the money to support families, and provide a supportive context for families, then you are missing a lot of the picture.

And I would suggest that simply to pass moral comment on family structures, well, it's cheap, it's free in fact, passing moral comment is free, it doesn't cost us anything. If you're not going to spend the money on providing security for families and stability, it comes across as sanctimonious moralizing.

CHAIRMAN REYNOLDS: Okay. Jump in there.

(Applause)

MR. WARREN: I just -- I just have a question, just related to that, because I heard that -- I have heard that argument, you know, multiple times. And I guess for me, what is the responsibility of men? Because to me I am just -- you can say, okay, we can -- but at the end of the day, because we're not in Europe, we're in the United States, right?

(Applause)

And the reality is we are not in Europe, we are in the United States, where there are a whole bunch of other things that go along with that, in terms of the American experience, that make this very

different.

But my bigger thing for -- I guess my question back is: what is -- because I'm just -- I go -- because I think men -- how now shall we live? What is my responsibility? Am I -- if I get a woman pregnant, what am I supposed to do? Am I supposed to make sure that the government structure is there to take care of my -- I mean, what am I really supposed to do?

Because I think that, at the end of the day, I mean, that is the other piece. And not, what am I supposed to do if I live in Europe, because they figured it out. I'm talking about, what am I supposed to do if I live here, today? And that's really from my perspective. Like when I'm hearing these stats about these young boys getting killed in the community, I am almost in tears here.

This is the real world, not academic world, not this -- the real world, tomorrow. A boy needs to hear something from someone that says, "How am I supposed to live as a man, now?" And that's --

(Applause)

And from my perspective, that is really what all of this is about. You can have all the stats; that's the question. And I'm dealing with boys

today, and they are asking me that question. But I can't give them what is happening in Europe. They want to know what is happening in Trenton.

CHAIRMAN REYNOLDS: Okay. Okay. Roland?

(Laughter)

MR. WARREN: I'm sorry. That's really not a question.

CHAIRMAN REYNOLDS: Harry? Okay. Roland?

MR. WARREN: Where I have to go every day, you sit in front of somebody, and you've got to tell them, "This is how you should live."

CHAIRMAN REYNOLDS: Roland, we can carry on this particular line of the conversation a little later.

Professor Holzer?

DR. HOLZER: I partly agree and partly disagree with the comment. I think the truth is -- and, again, just not to get into the moralizing piece, cohabitation in Europe tends to be a much more stable setup. So cohabiting fathers and moms still are very good fathers and moms, and we haven't figured out how to do that. Cohabitation in the United States is very unstable.

And if we can make our cohabitation as stable here as it is in Europe, I'd say that's fine,

you know, we don't need a priest or a rabbi to bless it. But in this country we haven't -- our cohabitation is not like that, so that makes the comparison with Europe -- you know, at the end of the day this is about fatherhood, not about marriage per se, and those men are stable fathers, and here they are not. So that is one problem.

The other problem I think -- and I agree that I think those social supports are very important, but the difficulty of trying to take the European model and impose it on the United States is, number one, those social structures are supported by very high tax rates in the United States.

And I don't know about you, I don't see the current political system in the United States as one where people are willing to embrace European-level tax rates to create that kind of a safety net.

And, number two, the European model, they have some difficulties on the employment side in some -- not all, but some of those countries, the tendency of people to drop out of the labor market or to remain unemployed for very long has been very high. So even though I like some of the supports provided, it is not very good on the employment incentive funds, so the European model has its minuses as well.

CHAIRMAN REYNOLDS: Okay, folks. I regret to inform you that we are cutting into lunch. I am going to take -- I am going to cut it off here, unfortunately, I apologize. So let's take a break for lunch.

(Whereupon, at 12:23 p.m., the proceedings in the foregoing matter recessed for lunch.)

MS. TOLHURST: Please continue to enjoy your dessert and your coffee, but we are now going to begin panel III if we can just get the room settled down. Thank you. I will turn it over to Commissioner Gaziano.

PANEL III: NEW TOOLS FOR A NEW CIVIL RIGHTS ERA

COMMISSIONER GAZIANO: Thank you very much, Kim. And Kim really does deserve all of our thanks for all of the work that she has done. There are some others whom I hope the Chairman recognizes later for their contribution.

Well, the charge for this panel is to address whether the traditional tools used to combat discrimination are sufficient to address the next generation of problems that have resulted from past discrimination, including continued racial and ethnic disparities in important measures of well-being and success.

This discussion obviously includes a consideration of public policy options, both old and new, but it goes beyond public policy by also asking about the limits of government action and what the right mix of government and non-government action should be.

In a pre-conference conference call with the panel members, we identified the following questions as relevant. They don't have to answer them all, but I am going to repeat them anyway. And if they go off on more brilliant things, I still might turn them back to a few of these questions.

First, beyond rigorous enforcement of anti-discrimination law, what can and should be done by government to narrow racial and ethnic disparities?

Two, what can and should be done by other institutions? And what other institutions are best suited to the task?

Three, what role can self-help play in narrowing the gap, or is that discussion a counterproductive exercise in blaming the victim?

Four, assuming self-help is an important part of the equation, how is that properly fostered and supported, or can it be?

Now, with regard to the role of public

policy, I asked the panelists to also consider an additional question-- have some government programs unintentionally contributed to racial disparities or the maintenance of racial disparities that existed from some other reason?

And there was a bit of a discussion in the previous panel on this question. And I suppose one subquestion that falls in that category is, even if government policies played an unintended role in maintaining or contributing to disparities, are they necessarily part of the cure or must we look to other means to solve the situation?

Well, I think you will all agree with me that we have a very impressive panel to address these questions. In my day job, I work for a think tank, but I don't think I have ever had the sort of experience of serving the people with the kind of breadth of experience and knowledge of this panel today.

I'm going to introduce them in the order in which they are going to speak, necessarily truncating all of their publications and appearances, but I do think they deserve some due. And your knowledge of their background may help you with questions.

Amy Wax will speak first. She is the Robert Mundheim Professor of Law at the University of Pennsylvania Law School, where she teaches social welfare law, and policy, remedies, and has taught several other law school subjects.

Previous to that, she received a medical degree with honors from Harvard Medical School and trained as a neurologist at New York Hospital, in the early 1980s. As impressive as that is, I might skip her digression into molecular biophysics, biochemistry, and medicine except that it has provided her with some powerful insights that have influenced her writing on social welfare and related issues.

Before she entered the legal academy, she was a law clerk to Judge Abner Mikva in the D.C. Circuit Court of Appeals and worked in the Office of Solicitor General of the United States, where she argued 15 cases before the Supreme Court of the United States.

Her current work addresses issues in social welfare law and policy as well as the relationship of family, the workplace, and labor markets.

Her most current book, *Race Wrongs and Remedies: Group Justice in the Twenty-First Century*,

which was published last spring, is of particular relevance to this panel's topic.

Next we will hear from Clarence Jones. Mr. Jones is a Scholar in Residence and Visiting Professor at the Martin Luther King, Jr. Research and Education Institute at Stanford University in Palo Alto.

From 1960 until April 4th, 1968, he was one of the closest political confidantes, advisor, lawyer, and draft speech writer for the Rev. Martin Luther King, Jr. During his years of work for Dr. King, he also became the first African American to become a partner in a Wall Street ivestment banking firm. And that enabled him to serve a critical role in the civil rights movement through his effective fundraising support for Dr. King in the Southern Christian Leadership Conference.

Jones is the recipient of numerous awards and citations, including the letter of commendation from President Bill Clinton for his work in Birmingham, Alabama in 1963, the Isaiah Award from the American Jewish Conference in 2006, and the Silver Shingle Award for distinguished public service.

He is the author of *What Would Martin Say?* published in 2008. And his newest book, *Behind the*

Dream: Inside the Speech that Transformed a Nation, is scheduled for publication next year.

Next we will hear from Bill Stephney. Bill Stephney is currently the principal executive for Joseph Media, a production and consulting firm specializing in media and telecommunications.

Among his many other notable achievements, of course, I have to point out he is currently Chair of the New Jersey State Advisory Committee of the U.S. Commission on Civil Rights. He is the former President of Def Jam Records. Now, I don't know. Civil Rights SAC Chair, President of Def Jam Records, but in some circles, Def Jam Records probably is better known.

(Laughter.)

COMMISSIONER GAZIANO: Where he played an important role in the career development of multimillion selling artists LL Cool J, The Beastie Boys, Slick Rick, Third Bass, he was also one of the founding members of the music production team The Bomb Squad.

By the way, don't make fun of me if I mispronounce these.

(Laughter.)

COMMISSIONER GAZIANO: And it is because I

am old, not because I'm culturally insensitive.

(Laughter.)

COMMISSIONER GAZIANO: Okay. Anyway, The Bomb Squad, as most of you know, was responsible for much of the work of Ice Cube, Bell Biv Devoe, Chaka Khan, Vanessa Williams. I know how to pronounce some of these.

(Laughter.)

COMMISSIONER GAZIANO: In short, Mr. Stephney was instrumental in shaping the billion-dollar multimedia empire that Def Jam has become.

Among the reasons we particularly wanted him to speak today is, in September 2008, Stephney joined with the New York-based firm E-Line Ventures to serve as an executive producer for a series of computer video games designed to feature a double bottom line strategy combining profitability with meaningful social impact.

Their first project, Talkers and Doers, is a computer video game franchise developed to encourage entrepreneurship for at-risk teens and young adults. This was the winner of a John D. and Catherine T. MacArthur Foundation grant, and it was awarded the Innovation in Participatory Learning.

The Talkers and Doers game will feature fun and relevant game play, I hope to a lay person like me, too, and will integrate real-world mentors, opportunities, and resources.

Mr. Stephney also served on the Board of Directors of the Apollo Theatre Foundation, was trustee for the National Urban League. He's a featured essayist in the book *Be A Father to Your Child: Real Talk From Black Men on Family, Love, and Fatherhood*.

And last, but not least, will be Carol Swain. Ms. Swain is the Professor of Political Science and Professor of Law at Vanderbilt University. Professor Swain is also a member of the National Endowment for the Humanities.

Among her many impressive titles, she also serves on the Tennessee State Advisory Committee to the U.S. Commission on Civil Rights. I've got to thank them for their service for our Commission.

Professor Swain earned a deserved national reputation for her work on race relations and representation in Congress with her book *Black Faces, Black Interests: The Representation of African Americans in Congress*. The book was named one of seven outstanding academic books of 1994 by the

Library Choice Journal; received the 1994 Woodrow Wilson prize; and, I should add, many other awards. But it has been cited by different justices in 1994 and 2003 in cases before the Supreme Court.

Her more recent books include *The New White Nationalism in America: Its Challenge to Integration*, which was nominated for a Pulitzer Prize; *Contemporary Voices of White Nationalism*; and, most recently, *Debating Immigration*, a collection of 18 essays by Swain and other scholars that explore the nuances of contemporary immigration and citizenship in the United States. She is currently working on another manuscript, *Broken Vows, Banished Virtues: Reclaiming America's Promise*.

So I will ask them to each limit their remarks to eight minutes. We began, I think, five or so minutes early so that we can save time for, extra time for, audience questions. And I am going to reserve the first question for a reporter who I think got the short end of the stick the last two times.

(Laughter.)

COMMISSIONER GAZIANO: But I will ask you all to recognize her. But you all can stay in your seats. I will give you -- we are going to have a panel discussion first. And I will try to give you

all a two-minute warning to come up to the mike.

So, with that, Professor Wax?

DR. WAX: Thank you very much and thank you for inviting me here today. I am going to try very hard to stick to the time limits. So perhaps this will have a certain breathless quality to it.

Just first off, I do want to put in a plug for my book, *Race Wrongs and Remedies*. Many of the themes I will be discussing here will come out of that book.

Really, my interest in this subject arose from my experience teaching poverty law. I teach about poverty, deprivation, and inequality. And, of course, race inevitably comes up. And immediately I noticed a kind of exasperating, disconcerting sameness, a kind of stale formulistic, ritualistic approach to the topic of race. And I determined to, in effect, try to build a better mousetrap, break through some of the usual shibboleths here.

One point that was especially sore in discussions of race, I thought, was this accusation of blaming the victim. Whenever someone pointed out the limits of government programs or policies or services and sought to stress the importance of self-actualization or self-help, the victim-blaming

accusation would be trotted out to effectively stop the conversation.

I really think that this is quite pernicious, and I think it is wrongheaded. And my insight comes, in part, out of my experience teaching another subject, which is remedies.

Now, there is a very strong ideal in remedies law, which is that the wrongdoer, the person who causes the harm, has to fix the harm. That is our ideal of justice. And it is an important one. But remedies also recognizes that that ideal cannot always be realized.

To make a long story short, I think that the situation of black America today is a situation where the ideal of justice can no longer be realized. The wrongdoer cannot fix what is broken. And here I am talking about white society, the rest of us, those of us who have undeniably harmed black America through discrimination, persecution, slavery, and the like. No. I think we are at the point where only the victim can cure himself.

I have a trope in my book called "The Parable of the Pedestrian," where I try to illustrate this insight. Just very briefly, a pedestrian is run over by a truck driver. He injures his spine. He has

to go to a rehab center. The truck driver and his company pay for his stay at the rehab center, which is kind of a middling rehab center but good enough. And the therapist there says to the pedestrian, "Unless you make a huge, sustained, strong, painful effort to walk again, you never will."

The pedestrian says, "That's not fair. The truck driver has to make me walk again. He's the one who harmed me."

"But that's impossible," said the therapist. "It just doesn't work that way."

And I think today for black Americans, we can say the same. No longer can white society rescue black America. No longer can white society fix what is wrong, fix what is broken.

So what is wrong? What is broken? I think that centuries of persecution have generated patterns of behavior practices, habits, belief, and patterns of thinking among the black community that are, frankly, dysfunctional.

And I'll go beyond that and say that, in my view, based on the data that I have seen and I summarize in my book, those patterns are far, far more important than discrimination presently, not past discrimination but present discrimination.

I am not saying that discrimination does not exist. I am saying that discrimination is now a small part of what is holding blacks back.

So, concretely, where are these dysfunctions? Three main areas. And we have already talked about these today. And I am going to say just a little bit more about them: first, family structure, sexual and reproductive behavior; second, educational underachievement and then lagging performance on the job; and, third, criminality and breaking the law.

Family structure. All right? We have already heard a lot about this. The usual story on the street and in academia is that the breakdown of the family is an inevitable outgrowth of the current economic climate, the disappearance of working class jobs. We have to move the economy. We have to remediate this by changing economic conditions. And that is the only path to reweaving the family.

I suggest tha, when we look at the data, that just doesn't pass the smell test. We can look cross-sectionally, and we can look longitudinally. Cross-sectionally we can control for income, education, whether a man holds a job or not. And if we look cross-ethnic groups, we see that blacks marry

at far lower rates up and down the socioeconomic scale. Well-educated blacks marry at much lower rates than well-educated whites, Hispanics, Asians. Less educated blacks marry at much lower rates. This is not economics, folks. This is behavior. This is culture.

Look back over time. All right? Harry Holzer makes out like every working-class man had a great job 50, 60, 70 years ago. I know for a fact that is not true. People of very modest income and prospects half a decade ago or more were married at much, much higher rates in all ethnic groups.

Having modest economic prospects does not inevitably lead to the breakdown of the family. Indeed, quite the opposite, today and in the past, when people who have less education and have working class jobs join forces and marry and get together and stick together, they improve their economic prospects. And people like Robert Lerman at the Urban Institute have shown this statistically to be the case.

What about educational underachievement and lagging on the job? Well, the black/white test score gap and performance gap is very well-known today, and it has been amply documented, but here is an important insight. The black/white achievement gap

doesn't stop at the school house door. It translates over into job performance. All right? And that has consequences for how much people earn and their advancement on the job.

Now, if you look at the industrial psychology literature, as I have recently had occasion to do, here is an unpleasant fact. Blacks lag in job performance on both objective and subjective measures by about half a standard deviation across most jobs, even if they have the same number of years of education.

Now, why is that? Because years of education don't tell the whole story. You have to control for other indicia of human capital, which is how much the person has achieved, what their aptitude is, what their test scores are, what they have learned in school.

And we know that there are racial gaps in what people learn in school and the human capital that they bring into school, even the same schools. We cannot account for this by saying that blacks go to worse schools, although on average they might, because this achievement gap exists within the same schools. Okay? And it exists among affluent blacks and less affluent blacks. Indeed, affluent blacks have the

biggest gap relative to affluent whites at any income level than less well-off blacks. Okay?

So there is something going on here that I think just economics and quality of schools and externals cannot account for. And I call that outlook, attitudes, culture.

Now, I submit that the government can do virtually nothing to change these things, that this is not something that the government can affect.

She is saying end here. So let me just end up with one point. There is a world of difference between helping people who are less well-off and utterly transforming their behavior. We have an outsized faith now in social engineering, in changing the fundamental way that people are through government, through programs, through services. This cannot be done.

I know that it is churlish to dump on the Harlem's Children's Program, which is a wonderful program, right? The Harlem Children's Zone, I guess it's called.

But what are we trying to do here? What we're trying to do is impossible. Basically we have a crash program to turn children into constructive citizens that entirely replaces the family and says we

need to rebuild children from the bottom up because the traditional structures and institutions that are doing it are failing us.

And I say that is impossible. No institution can come in and do what these traditional structures have failed to do. All right? We cannot find enough warm bodies, enough dedicated people to enter our lives and transform individuals ab ovo and replace the family.

Thank you.

(Applause.)

MR. JONES: First of all, let me say publicly that the chairman, this Commission Chairman Reynolds and the commissioners should be congratulated and really applauded for convening this conference.

(Applause.)

MR. JONES: With all due respect to the various conferences that take place, like the NAACP, the National Urban League, Southern Christian Leadership Conference, and various other meetings that take place, particularly during the summer, this conference today at this place on this subject may be the most important conference to take place in the Twenty-First century.

(Applause.)

MR. JONES: Now, you know, Saint Augustine said many years ago, "Hope has two beautiful daughters. Their names are anger and courage: anger at the way things are and courage to see that they do not remain as they are."

Yes, Brother Raspberry, the stream is crossable. The stream is crossable. And you are right to summon us to buy a ticket, not just wait for the lotto.

In 1857, Frederick Douglass said many things, but one of the things he said at a convention in upstate New York, I just want to quote that for a moment. He said, "The general sentiment of mankind is that a man who will not fight for himself when he has the means of doing so is not worth being fought for by others, for a man who does not value freedom for himself will never value it for others or put himself through any inconvenience to gain it for others."

The whole history of the progress of human liberties shows that all concessions have been born of earnest struggle. If there is no struggle, there is no progress. Power can seize nothing without a demand. It never did, and it never will.

Two philosophical precepts deeply embedded in the historical development of our nation are

relevant to the issues being considered at this conference. One celebrates the power of the individual to develop his or her innate talent or human capital to pursue life's opportunities through committed individual stick-to-it-iveness, which can result in personal and business success.

The other, following the institution of slavery, its subsequent political and economic consequences, suggests that, whether business or economic success will result from the committed personal application and development of one's individual talent, so human capital, by those whose ancestors were slaves, may be dependent upon the fortuitous advantage of either the receipt of third-party wealth and/or the conscious intervention of a variety of government-enacted programs of assistance.

Forty-seven years ago last month Martin Luther King, Jr. summoned the conscience of America to live up to the principles and precepts enshrined in our Declaration of Independence. You know what he said. He said, "When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir," a promissory note that all men, white and

black, would be guaranteed their unalienable rights of liberty and pursuit of happiness, life, liberty, and pursuit of happiness.

He reminded us that "America has defaulted on this promissory note, insofar as" its "citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked 'insufficient funds.' But," he said, "we refuse to believe there are insufficient funds in the great vaults of opportunity of this nation. And so, we've come to cash this check, a check that will give us upon demand the riches of freedom and the security of justice." We have come to collect 350 years of poker chips.

He believed that liberating the Negro from chattel slavery in 1863 and then expecting him to compete overnight in the free market was a symptom of depraved absurdity because nothing ever was done to counterweight the fact that, by law, the black man had been kept illiterate and penniless. Worse, at the very moment that freed slaves were discovering that 40 acres and a mule that they had been promised were no more real than the proverbial check in the mail, the Army was clearing Indian lands. And the federal

government was inviting both white citizens and European immigrants to come and grab what they could.

The black man had been brought here against his will but was not offered any place in America's manifest destiny. Freedom for the Negro was freedom without bread or eat or land.

You know, this past spring semester, at the request of the faculty of the Graduate School of Continuing Education at Stanford University, I designed a syllabus and reading list for a course required for students seeking a Master's degree of liberal arts. The course was captioned "From Slavery to Obama."

Graduate students who enrolled in that course collectively suggested that the absence of any generational transfer of wealth with compound interest from emancipated slaves to their successor families of African Americans after slavery had created a systemic economic and financial disparity between current African-American communities and the majority white population. They concluded there had been no economic redress for the consequences of slavery, originally contemplated by the 39th Congress when they said 40 acres and a mule. So none of this was provided to the newly-emancipated slaves and their successor

generation of families.

And, as one of the speakers, I think Mr. Patterson, speaking about Lyndon Johnson, said at a commencement speech at Howard University, "You do not take a person who for years has been hobbled by chains and liberate them, bring them up to the starting line of a race and then say, 'You are free to compete with all others' and still justly believe you have been completely fair. This is the next and more profound stage of the battle for civil rights. It is not enough to open the gates of opportunity," he said.

President Johnson asked this audience to pay special note of what he referred to as a breakdown of the family, particularly in low-income communities. Johnson's speech had been influenced by and, of course, incorporated some of the findings of what had been discussed here earlier of the then Labor Secretary, Assistant Labor Secretary, Patrick Moynihan, "*The Negro Family, The Case for National Action*."

I think it is important to take a moment to quote some of what he said, which is so relevant today. He was talking about 1965. "In this new period, the expectation of the Negro American will go beyond civil rights. Being Americans, they will now

expect that in the near future, equal opportunities for them as a group will produce roughly equal results, as compared with other groups. This is not going to happen, nor will it happen for generations to come unless a new and special effort is made." It's what he said.

The fundamental problem, in which this is most clearly the case, is that of family structure. The evidence, not final but powerfully persuasive, is that the Negro family in the urban ghettos is crumbling. A middle-class group has managed to save itself but, for vast numbers of the unskilled, poorly-educated city working class, the fabric of conventional social relationships has all but disintegrated.

Measures that have worked in the past or would work for most groups in the present will not work here. A national effort is required that will give a unity of purpose to the many activities of the federal government. This, of course, all represented the effort of the federal government to address interrelatedness of race, gender, and poverty. What I have said before, of course, refers and describes the ideological basis for the generic remedial program, a basis called "affirmative action."

Chairman Reynolds astutely indicated in his letter we have reached a critical juncture in civil rights that necessitates an open and frank discussion about lingering racial disparities. Civil rights tools of the past generations have proven ill-equipped to alleviate these disparities.

A classic definition of insanity is a repetition of the same course of action in anticipation of a different result each time such action is limited. The magnitude of several of the issues and problems extant within our communities requires the fresh air of realism. Predisposed ideology must be adjusted on the basis of pragmatism.

If you believe, for example, that the tenure of teachers in public schools who repeatedly turn out year after year an inferior work product of students inadequately educated in basic language, writing, and math skills is sacrosanct and not subject to removal, then this is an example of insanity: repeating the same course of action year after year but expecting a different result.

Yes, traditional tools used to combat legal discrimination are not only insufficient and inadequate but may be functionally irrelevant to address the current generation of problems

substantially but not exclusively due to past generation or to class discrimination.

Past conventional approaches to civil rights are not responsive to the current realities of problems confronting our communities identified by Patrick Moynihan.

Thus, the principal civil rights challenge of the Twenty-First Century is a commitment to the pursuit of educational excellence and a greater assumption of personal responsibility for conduct that creates adverse social and economic pathologies in our communities, which diminish the opportunity for effectively competing in the larger society.

(Applause.)

MR. STEPHNEY: Good afternoon. You gave Roland Warren much more love than you gave me.

(Laughter.)

MR. STEPHNEY: So let's try it again. Good afternoon.

(Whereupon, there was a chorus of "Good afternoon.")

MR. STEPHNEY: See, I beat Roland. That's good. I served with Roland on the board of the National Fatherhood Initiative way back when, about ten years ago. And I thought his comments were great.

It's been amazing to watch your growth, brother, actually, over time, fantastic.

Todd, when running down my background, actually sort of made me scratch my own head trying to figure out exactly why am I here, you know, amongst a distinguished gathering of theorists, academics, public intellectuals. In essence, I have spent most of my life in media in popular culture.

So there used to be the segment on Sesame Street when I was young. It used to go, "One of these things is not like the other."

(Laughter.)

MR. STEPHNEY: Do you recall that? So I was sitting there, and as you're running down --

COMMISSIONER GAZIANO: You're going to give us the answer, though.

MR. STEPHNEY: It could be. I'll give you a Sesame Street-level sort of answer in keeping with who I am and what I do. So, you know, I absolutely applaud Chairman Reynolds for his vision, for this conference, which, you know, I echo the statements of Mr. Jones. I think this is actually historic.

From what I understand, because I have been taking my notes in the back, sometime in the '60s, there was a study about black families. And

then, all of a sudden, people decided not to talk about black families.

So, as far as I know, beyond some of the good works on fatherhood in terms of a public discussion of family structure, I think this is actually one of the first national efforts that we have ever had, at least from what I am getting and gleaning from our conversation today. So I have been a prepared student for the intellectual and academic discourse.

So once again I try and figure out why Chairman Reynolds would invite me here to address everyone other than for the fact that, after 25 years of working to essentially help destroy contemporary culture, that, you know, basically I am here to help.

(Laughter.)

MR. STEPHNEY: Now, there are numerous definitions of culture. In keeping with what I do, I went to the computer at Wikipedia, and there was one from Merriam Webster, "the customary beliefs, social forms, and material traits of a racial, religious, or social group, the characteristics and features of everyday existence as diversions or a way of life shared by a people in a place or time."

Further, there was another definition for

popular culture, "Popular culture, commonly known as pop culture, is the totality of ideas, perspectives, attitudes, means, images, and other phenomena that are deemed preferred per an informal consensus within the mainstream of a given culture, especially Western culture of the early to mid Twentieth Century."

And in thinking about civil rights and how we have gotten to where we are today, how I have gotten to where I am today, given the fact that I was born to two African-American parents in the early '60s, married, by the way, prior to the Moynihan report, who upon their marriage and wedding, for their honeymoon drove from New York to California, for their honeymoon, and stayed in segregated hotels, I was conceived, literally, within segregation. And some two years after my birth, two or three years, we wind up getting, as I have heard throughout the day, the report that our families were in crisis some 45 years ago.

It's interesting from my vantage point having grown up during this crisis of the Negro family to sort of analyze the changes in culture. And I think that many of those changes were probably affected by family structure consistent with what has been discussed today.

That affects everything. It affects film, television, music. You know, I think about, as I look at our backdrop, in the area of defining civil rights in the Twenty-First Century, I think about civil rights in the Twentieth Century and I think about how the civil rights movement during the mid '60s had a soundtrack, you know, "We shall overcome."

In our business, we would call that a main title theme. Like when you are watching a movie and you see the credits at the beginning and then you hear a song, that is usually the main title theme. So we had incredible main title themes that were informed by the politics of the day. Culture impacts politics, and politics impact culture. We don't separate, I don't think. That's not been my experience.

But now, having worked closely with many young rappers and musicians during the past 25 years, I cannot overstate the amount of emotional and psychological damage that has been done to young men and women, but especially our young African-American men, who have grown up not only in fatherless households but also, in essence, what are fatherless communities, male, adult male-less communities, neighborhoods devoid of men.

Family structure, I believe, abhors a

vacuum. Hence, gangs provide a perverse safety net for young people left without structure. Young men seem to have no faith in their own human potential and in their capacity to successfully navigate life. So they adopt a lifestyle informed by the values they have developed solely on their own "in the hood," and without parental input and/or authority.

You know, one of the most famous rappers of today has become almost a billionaire. He made money off of endorsements, but his first CD sold millions, made tens of millions of dollars for the company that he records for. The title of his debut CD was "Get Rich or Die Trying."

So, you know, you perform a juxtaposition. You think we shall overcome in the mid '60s, prior to the literal destruction of family structure within these communities. And you fast forward some 45 years later, and you have young men who are rhyming and singing, "Get rich or die trying." And, unfortunately, most perform the latter and not the former.

And our young women have been terribly affected by fatherlessness and family structure difficulties. Many of our young women have no conception of adult male parenting, which to them is

abstract, at best, and nonexistent at its worst. And it often results in those young women engaging in unhealthy relationships with multiple men and a distorted view of the relevance of men to themselves, to their families, and to their communities.

Now, after all of that, how do we turn all of this around? You know, I know how to destroy, but I'm not so certain on how to build, other than I tap in perhaps to my own experience right now as a married father with three children, just quickly, very quickly, as a married father, as a married African-American father, who moved his children from a school district where 600 kids attended the public school, in which I had my oldest son on back to school night, 6 parents showed up for the 600 kids. I moved to the suburbs, into New Jersey -- and I'll be quite frank -- into a predominantly white, suburban, upper-middle-class school district. And on the back to school night in that district, not only was the main room filled, but there were two overflow rooms that they had to stream video. In fact, it looked like the first week of Avatar opening. You know, that's how crowded it looked.

I'm not sure that government can negotiate or provide anything for that disparity, but I know

what government can do. It has a bully pulpit. And it has the ability to engage us in conversation, has the ability to spur conversation and, even in the instance of what we are doing here, bring us to a point where we are melting the ice that we have had on the discussion for family structure.

So I thank you very much for your time. And have a great conference and convention. Thank you.

(Applause.)

MS. SWAIN: Good afternoon.

(Whereupon, there was a chorus of "Good afternoon.")

MS. SWAIN: It's show time. And my teleprompter is broken, and I don't know how I am going to do.

(Laughter.)

MS. SWAIN: But I want to thank Chairman Reynolds and the members of the Civil Rights Commission for inviting me. And the remarks that I intend to present may be a little bit different from what we have been discussing, but I think they are important. So, to my notes.

It is obvious by now that the civil rights tools that we have used for the past 40 years have not

worked very effectively. And there have been some successes. Many of them benefitted the middle class.

I mean, programs like affirmative action, they have helped build a large black middle class, people that are affluent. It has also helped the Hispanic community. It has helped white women. And if you were to look at the history of affirmative action, you would see that the program by 1970, there were something like 5 groups that were covered by race-based affirmative action. And these are groups that did not have the history of African Americans.

The part of the community that I come from, I was born in the rural South. I'm one of 12. We all dropped out of school. I have a GED. Everything I have accomplished has been under those adverse circumstances.

And I don't have time to explain to you why me, why I got out. I was the only one of the 12. I'm a firm believer in purpose, in God. And I think doors were opened up for me. And I have had the opportunity to see life at the bottom.

To see it now as a person, you know, that is strongly ensconced in the middle class, and to have taught at Princeton, I was tenured there, I see how the system works. I see how it doesn't work. And I

see the deception. There is deception everywhere. And that is unfortunate.

It is true that the definition of insanity is doing the same thing over and over again and expecting a different result. And I think that we do that too many times.

And, even here today, we are talking about civil rights. And civil rights in the Twenty-First Century has to be about more than race and race-based remedies. It has to address discrimination but also be geared towards solutions that will impact the masses of poor whites, blacks, legal Hispanics, members of other groups that are trying to get a stronghold on the American dream.

And it can't be just about the black underclass. The people you were talking about are people in my family. I mean, they have their problems. And there are things that I believe that we can do to reach people that are in that unfortunate situation, but whatever remedies and approaches we take going forward have to be geared around helping disadvantaged people, not one particular group.

Civil rights in the Twenty-First Century has to encourage people to see themselves not as outsiders but as Americans. And they need to have

that can-do spirit that many of our ancestors have had.

I think about myself, that I come from a social class, a part of the country where, as soon as you open your mouth and people hear the Southern accent, they immediately begin to make assumptions about your IQ.

I've always had an "I'll show you" attitude. And so people underestimate me all the time. And so, "Okay. Underestimate me." But I've seen that as a challenge, that I welcome the challenge.

Civil rights is about black people. Civil rights is about white people, brown people, yellow people, red people coming together to tackle the perennial problems that have plagued this nation, problems that have not been amenable to any of the existing programs and experiments.

Progress towards common goals will require new approaches. And it will require a strategy that combines self-help with private initiatives and carefully targeted and tested governmental programs that are geared towards the most disadvantaged Americans. Again, these are poor whites. These are blacks. These are legal Hispanics. These are members

of other minorities that are in this country that have fallen behind.

It will also require strong immigration enforcement. It will also require strong immigration enforcement. It will also require strong immigration enforcement. I'm sorry. The teleprompter was stuck.

(Laughter.)

MS. SWAIN: It will require an investment in native-born human capital in the form of vocational educational opportunities for the non-college-bound. Not everyone belongs in college. When I started college, I started, I got a GED in '75, I started at community college. I did well at that community college. That got me into the next college. That got me into the next college.

Not everyone belongs in college. And not everyone wants to go to college. And it has nothing to do with their IQ. We need to have strong vocational programs in the high schools.

And we need, in the communities where all of these people are unemployed that are older -- they are in their 40s and their 50s -- we need programs to retrain these Americans to do jobs that Americans will do.

Our country has changed in dramatic ways.

Consider that, by the year 2042, it is estimated that America will be a majority minority nation with non-Hispanic whites and blacks constituting decreasing percentages of the population. Hispanics and Asians will be the fastest growing groups.

Some of these newcomers are not in the country illegally. Some of them are in the country illegally. Some of them are not in the country legally. Many of them are poor. They compete directly with poor whites, blacks, Hispanics, and legal immigrants for a dwindling supply of low-wage, low-skill jobs.

Civil rights in the Twenty-First Century cannot turn a blind eye to the rule of law. Many of the newcomers come from nations where there is no rule of law. And what kind of example do we set as Americans when we don't enforce our own laws? We have an opportunity to say that we are different.

You know, this is a nation of laws. We are not doing that. We are setting a poor example. And we ought to be ashamed of ourselves.

Civil rights also has to be about the white community and the white community not feeling aggrieved. And, while we struggle with the continuing problems of blacks, white people struggle with the

1 racial dialogue in America. And I can imagine that
2 people watching C-SPAN or wherever they are going to
3 see this would turn off the TV. And it's like same
4 old, same old. It's like we never get beyond this.
5 Last year I received an e-mail from a
6 white woman who identified herself as Jewish -- I
7 would call her -- you know what I'm trying to say --
8 Hadassah -- in a plea to me to make an effort to
9 bridge racial differences by serving as a bridge
10 builder. She wrote, "I myself never harbored any
11 racialist or racist attitudes until the advent of the
12 playing of the race card, affirmative action, reverse
13 discrimination against white people, and the myriad
14 attempts by liberals in government to make life
15 unbearable for those of the white race, such as forced
16 integration, forced busing, and the ruination of white
17 neighborhoods. I have met many Asian people who share
18 these exact concerns as well.
19 "Because of the many efforts by
20 professional race mongers, such as the Southern
21 Poverty Law Center, the NAACP, and the like, hatred
22 against your people has heightened to a level I never
23 before have seen in my half century of life on this
24 Earth. It terrifies me. And I wonder if perhaps
25 fair-minded persons like yourself could help

ameliorate this in some way.

"It seems you have indeed been trying. I tried to do the same within the Jewish community to make Jewish liberals understand that many of their actions only harm the Jewish people in the eyes of the Gentiles."

Around the time I received Hadassah's e-mail, there was a video on YouTube, "Whites are people, too." And one may ask, "Well, why are white people stating the obvious? This is ridiculous."

I say it doesn't serve our needs to focus on these issues as racial issues, that we are all Americans. We have to have an American solution. So civil rights in the Twenty-First Century has to be about Americanism. The problems that we are addressing are problems of social class.

Thank you.

(Applause.)

COMMISSIONER GAZIANO: Thank you all.

Let me try to ask the panelists to address each other a little bit first. And the first question, I think I would like to ask both Clarence Jones and Amy Wax to elaborate a little bit on something that I think they agree with and possibly disagree with.

Certainly we heard Clarence Jones says that he wants to promote the pursuit of educational excellence and a greater assumption of personal responsibility, which I think is certainly shared by all of the panelists.

But one of the questions I wanted to ask is, what is the proper role of government? I did hear Amy Wax say she thought that there was a very limited role. Maybe she will put it in different words. And then I would like to ask Mr. Jones if he would elaborate on what the role is of government in promoting greater assumption of personal responsibility.

Who wants to go first?

DR. WAX: I'm happy to go first. As I said in my talk, I think the government does have a role. The government needs to take steps to provide a healthy economy, a sound educational system, a basic safety net, a hand up for people who are less well off. Certainly I think all of that is appropriate.

But the notion that we can go from that, that sort of basic set of roles, to, once again, a fundamental transformation of people's behavior, I think that is a rescue fantasy of the first order. And it just doesn't work.

I think there are some really pernicious ideas out there, some ideas that we really should get rid of that impede our seeing the role of government and the role of individuals clearly.

I would like to just throw out one of those ideas. And that is that oppression and persecution, certainly a history of oppression and persecution, is either an excuse or an explanation for bad behavior. I think that's just about the dumbest idea that I ever heard. In fact, I was certainly taught as a child that persecution and oppression are a reason for good behavior. Actually, the only way to overcome them is to engage in the best behavior possible to put your best foot forward.

So the notion that bad behavior is an outgrowth, an inevitable outgrowth of persecution and oppression, is a terrible idea, and it's a false idea. I think a lot of our notions of what the government can do and should do to us come out of bad ideas like that.

Just one more observation. Isabel Sawhill and Christopher Jencks have this wonderful conversation, this wonderful insight, where they say -- and I think this is true, and the data bears it out -- that it is actually quite easy to avoid poverty in

this country. You only have to follow three simple rules. And I'll just add a fourth. And anybody can do it. And they are: graduate from high school; get married before you have children; take a job, any job, and stick with it and perform well, which is not as complicated as it sounds; and also, I would add, don't break the law. Right? Do those four things. And your chance of being poor is in the small single digits.

Now, this is not rocket science. Heck, this isn't even social science. And, in fact, social science is part of the problem, because it is social science that is telling us that it is really far more complicated, that we need a Ph.D. in order to figure out how to get ahead in this country. We don't.

COMMISSIONER GAZIANO: Thank you.

MR. JONES: I agree with virtually everything Professor Wax has said. I just want to say one point which I omitted to say in my limited period of time. Ms. Heather Mac Donald, is that your name, right? I think you need a bodyguard 24/7. And the reason I say that is because the truth of what you say is so powerful and so relevant. And I wish it could be replayed over and over in a loop.

In my book, I refer to it a little more

graphically. I call it the black killing fields that takes place. The white man didn't make us do it. Do you understand what I am saying? That is not a direct consequence of racism.

Now, what can government do? In the Twenty-First Century, I think that on the basis where for most of the Twentieth Century, government was concerned with providing what was intended to be a level playing field in terms of equal opportunity under the law.

In the Twenty-First Century, I think that there are limits to what the government can do. What the government can do, as suggested by my colleague Ms. Swain, for example, the government can enforce the laws. I mean, yes, illegal immigration. It is not undocumented. It is illegal immigration. That does affect the pool of available jobs.

The other thing the government can do is, to the extent that it can -- I am not suggesting affirmative action to provide a level playing field, but I am suggesting that to the extent that -- and this is very much the current discussion -- to the extent that you can deal with problems in the economy that are beyond any individual's ability to overcome, to the extent that the power or the planning of

government can make a difference in the economic opportunity, not giving a preferential treatment, I should say you are looking at someone that was as ardent and articulate, I believe, an advocate of race-based affirmative action as you could find 24/7. And, although he is not here to speak for himself, Martin King was the same.

But, as I said in my book, I think he would have come to the same conclusion that I've come to, that race-based affirmative action is not the answer. If you are going to talk about affirmative action, it has to be based more on economic need and class need and race has got to be totally irrelevant.

Behavior, personal behavior -- I am not a sociologist. I have limited -- I have five children. And so that gives me some experience, but personal behavior comes from a set of values that have to be instilled somewhere at some time.

You're looking, the person speaking to you is an only child of domestic workers. My mother was a maid and a cook, and my father was a chauffeur and a gardener. When I was born, they were too poor to have me.

They didn't have a home. My home was in the home where they worked. So before the age of six,

I was placed in maybe four different so-called foster families, friends of my family, friends of my parents.

And then my mother particularly, God rest her soul, my father, too, they put me in a boarding school at that time for indigent colored orphans and foster children. From the age of 6 until 14, I was raised by white Irish nuns by the Order of the Sacred Heart. Those critical years I had a sense of right and wrong instilled in me. I had a sense of values instilled in me.

Now, the question, I guess -- Sister Mary Patricia, God rest her soul, she would say, "Well, you know, Master Jones, you strayed a little along the way since you left."

(Laughter.)

MR. JONES: That is true. But the fact is that somebody somehow -- a fatherless home or a father in the home, yes, these statistics appear to suggest that a two-parent family gives you a greater opportunity, rather than a single-parent family, but there has to be a bedrock.

Government can't instill a bedrock that says that you shouldn't go over and shoot somebody because you want their pair of sneakers. That comes from a sense it is wrong to kill. It is simply wrong

to kill.

Yes, we know that violence lies like molten lava beneath the surface of society waiting to erupt, but it is wrong to kill. It is wrong to steal. You are also giving young males, who -- I'm not saying boys will be boys, but I am saying young males who grow up in a society where to be competitive in athletics is to be strong, is to take out the opposition, they grow up to be strong and manly and so forth.

You watch professional football teams, and one person is tackling and throwing the other person down on the ground. You watch boxing matches. To be manly is to be able to get physical advantage over your opponent.

But at the same time, there is something called love. There is something so fundamental about you have to love your human being. You may not necessarily like them, but you have to love them because, by loving them, you accord them the same status of dignity that you want to be treated by them.

COMMISSIONER GAZIANO: Thank you.

MR. JONES: So, therefore --

COMMISSIONER GAZIANO: I'm going to hate --

MR. JONES: Just let me say one --

COMMISSIONER GAZIANO: Okay.

MR. JONES: I just want to say one thing, that the virus of violence, which is so explicitly described by Heather Mac Donald, should make us shudder.

COMMISSIONER GAZIANO: And Clarence Jones reminds me that the nuns who taught me can also be as stern as a stern father.

MR. JONES: That's correct.

COMMISSIONER GAZIANO: But we'll --

MR. JONES: I'll keep quiet.

(Laughter.)

COMMISSIONER GAZIANO: I was going to ask a different question of Carol Swain, but I see she wants to get in here first.

MS. SWAIN: Well, I think it's important for me to speak up and say that I do see a role for governmental programs. When I look at my own success story, I was greatly helped by work study. And my work study job turned into a permanent full-time job at the library while I was a student. I was greatly helped by the Pell grant. I was helped by programs for disadvantaged Americans. They were not race-based programs. They were open to everyone.

I would like to believe that there would be always programs out there where someone, if they were willing to work hard, and I was willing to work hard academically as well as working while I was in school, that you could actually achieve the American dream, go from the underclass to the middle class. And I don't care. I want every American, you know, that poor white kid in Appalachia that has a dream to live in a society where there are programs out there, there are people willing to help.

And many of the people that helped me, encouraged me the most, my mentors, were not people that looked like me. You know, many times they were white people. Many times there were strangers that encouraged me. And so never ever underestimate the power of a word to plant an idea and to transform a life.

And so yes, there is a role for governmental programs. There is a role for you as individuals to help people. And it is not as simple as Professor Wax makes it in a sense that, of course, it would be great if everyone could graduate from high school. I dropped out in eighth grade. And so did all my siblings. We didn't choose that.

I married at 16, not because I was

pregnant. It was the only way I could get away from home. And so you don't choose the circumstances. There are many kids that are in homes that don't even have electricity. And so they can't study at night. They don't have food. I mean, it's their parents' failings, but there need to be places in society that can help those children.

Newt Gingrich was not crazy when he said some kids ought to be taken from their parents and put in some type of institution and raised by other people. That's all I have to say about that.

COMMISSIONER GAZIANO: Okay.

(Laughter.)

(Applause.)

COMMISSIONER GAZIANO: I'm not going to talk about taking away people's kids, but I will ask, Bill Stephney, you know, I always think our Chairman is brilliant. So I assumed he knew exactly what unique thinking you could bring. I'm going to press you a little bit.

In our pre-conference call, you talked about how your industry, the media industry certainly, wasn't frozen doing the equivalent of marching on Washington. Your industry moves fast.

And so I wonder if that provides you some

insights on how culture, since I'm hoping that is your specialty, can be harnessed. I mean, by the way, maybe this discussion on C-SPAN will reach hundreds of millions across the globe. And this by itself will convince them, but I'm a little dubious.

So what else can we do?

MR. STEPHNEY: Well, certainly. And I think, again, this is one step because this will be a nationally broadcast opportunity to strengthen and encourage the discussion around these issues. And that's what we do in media culture. You know, we spread thoughts and information. And from that, we hope that society engages in discourse to figure out where we should go next.

And, you know, again, I am struck by the fact that government seemed to do the right thing 45 years ago and that there was at least a specific analysis of the problem of family structure as it pertained to African-American communities.

So government does the right thing. From what I understand -- and I did read a bit of Professor Patterson's book -- you know, Senator Moynihan, who was at that point Assistant Secretary of Labor Moynihan, got in trouble. So at that point government got in trouble for doing the right thing.

So, you know, we're struggling trying to figure out how can we get government to do the right thing. When it does the right thing, we get mad. When it does the wrong thing, we keep quiet.

For instance, after the Moynihan report, from what I understand of history, we changed public policy not to discourage single parenting and unmarried childbearing but to encourage the public policy changes from family financial supports going to widows to now going to unmarried mothers.

So we then fast forward. Because of government and those policies essentially reinforcing the matriarchy that Moynihan talked about, my business then has all these young men who have been raised, in essence, in these matriarchal communities, where they view women as an opposing, oppressive force the same way that they view police: as authority figures. So all the vitriol, all the anger that you hear in the music, sort of reverberates back to public policy in the mid '60s.

So that's why I'm very cautious when we talk about what can government do. I think I failed Latin in high school, actually. And there was the Latin term Primum non nocere," right, which was the medical injunction "First, do no harm."

And I think that is what we are demanding of government at this point given the fact that government for so many years did probably not so much good stuff for our families and our communities. And our culture represents that.

Now, there are other things going on. Three years ago Will Smith, biggest film star in the world, makes a film called "The Pursuit of Happyness," which was based on the story of Chris Gardner, a single father, custodial, trying to navigate the difficult system of public policy that benefits single custodial mothers but has nothing to say and no supports for single custodial fathers, once again giving the stiff arm to the father and once again government doing the wrong thing. Media shows the story of the struggles of Will Smith in that film. And it's a very successful film, makes $200 million.

Tyler Perry, who has become a very successful film maker within the African-American community, three weeks after the release of "The Pursuit of Happyness" releases his own film called "Daddy's Little Girls," also a film about a single father struggling to gain access to his kids, as he's prevented by the court system, once again government kind of doing the wrong thing.

So, you know, we have two things going on. The culture, I think, recognizes on the ground and organically that there has been a problem in terms of family structure, public policy, and the culture, but we are now just starting, beginning to have the conversation from a governmental, public policy, civil rights level that perhaps some disparities were created by public policy as it pertains to family structure that we have to deal with. So I say pay attention to the culture sometimes because it can inform government.

COMMISSIONER GAZIANO: Thank you very much.

Now we're going to have a lightning round, one minute each, because in four minutes I'm going to turn it over to the audience. So I suppose this is your four-minute warning. And I'm going to ask each of you to try to limit it to a minute.

This question is suggested by Professor Wax's book. She distinguishes -- and you can correct me if I mischaracterize it -- between brick wall discrimination, which was the old de jure discrimination, and hard struggles. And your thesis, I believe, is that the world is a matter of hard struggles.

But here I am going to tee off the question with one of your questions. Is it possible to pursue an arduous program of self-improvement while simultaneously thinking of oneself as a victim of grievous mistreatment and of one's shortcomings as a product of external forces?

DR. WAX: Well, I am going to answer that with an anecdote, something that occurred to me after I wrote the book. I grew up in a fairly devout Jewish family, working-class Jewish family, not in poverty but under austere circumstances that to my children are just inconceivable, my pampered children anyway. And there was a lot of talk in my community, very close-knit community, about how Jews have been oppressed and persecuted and all the horrible things that had happened to Jews throughout history. This was a constant drumbeat.

But I can tell you never once in my entire childhood and adolescence did I ever hear an individual in my community either explain or excuse their own failings based on anti-Semitism or discrimination, never once. If someone had ever said, "Well, the reason that I dropped out of school" or "the reason that I got fired from my job" or "left the mother of my children" or "committed a crime is

because anti-Semitism. That's the reason that I did it" or "because Jews are discriminated against," they would have been sneered at, laughed out of the community. I mean, this would not have been tolerated. This was not the way we thought about ourselves, our individual lives and destinies.

So I think it is possible to be conscious of the terrible things that have happened to you, of the facts of your history, and still have a strong sense of agency and of responsibility and have control over your own destiny. I think that is possible.

And I think the challenge for the black community is to find a way to hold those two ideas simultaneously in mind and act upon them.

MR. JONES: I think that the way to do that is to rededicate -- and what I said, it's like a broken record -- to rededicate ourselves to the celebration of the pursuit of excellence, to rededicate ourselves to a commitment to the pursuit of educational excellence.

It is possible for you to pursue excellence 24/7 and at the same time saying, you know, "I've had it. It's been rough" or "I know A, B, C, and D. I've not been treated fairly." But the fact is, there is a sense of individual responsibility and

personal pride and commitment that have to say that "I'm going to do it," that "I can do it" and "I will do it."

COMMISSIONER GAZIANO: Thank you.

Bill?

MR. STEPHNEY: Do you want me to respond?

COMMISSIONER GAZIANO: Yes. No. I mean, do you have a thought on this subject?

MR. STEPHNEY: I mean, I have a concluding thought.

COMMISSIONER GAZIANO: Sure.

MR. STEPHNEY: Pursuant to what the media industry and technology industry look like, I just think that we need to be more privately entrepreneurial about these sorts of issues, that, you know, we treat social disparity, structural disparity in the same way we treat the formation of Apple, of Google, of Facebook, of YouTube, you know, all of these very successful institutions that have been developed over the course of the, what, past decade. You know, when we think of some of the private institutions that we rely on to discuss and/or address these issues, you know, most of those organizations are like a century old.

So, you know, we have been on automatic

pilot for attempting to address from an organizational entity and institutional standpoint these issues for about 90 years. You know, so I think we need to infuse the thinking and best practices for addressing family structure for poverty, otherwise with this same creative entrepreneurial energy that we approach developing on the Web and developing technology and other sectors.

MS. SWAIN: I think the problem is the messages that come from minorities that are successful, that too often those are the ones that are telling everyone else how racist the society is, how you can never get ahead.

And many of them are people in academia. And it's not just the minorities. It's also the white liberal professors at the elite institutions that are making public policy about issues that they -- at best, they may have gone in the field for six months or a year and studied the problem, but they've never lived it.

And I think as long as we have academia having so much influence and people from the Ivy League having so much influence and guilt-ridden affluent minorities, that, you know, they're guilt-ridden. And so they look at their brethren.

And the best they can do is tell them that "Society is stacked against you. You can't make it."

Amy is right, really, that if you really -- I mean, there is something about the whole culture. And I know we are not supposed to talk political party, but there are too many people who have a vested interest in blinding the people to what they are capable of doing.

And so I think that we need to send new messages to young people. And it doesn't have to be other minorities sending the message. Again, many of the mentors I have experienced were not people that looked like me, same races, same gender. And I think that we have to counter that message, but we also have to make sure that the people that get into public policy roles, the people that get appointed to the Supreme Court, that get appointed to positions of power are not all people from the Ivy League. We need people from the other part of America, the real America.

(Applause.)

COMMISSIONER GAZIANO: Spoken from someone who left Princeton.

Okay. Now we'll turn to you for the first question of this panel.

MS. PRESCOD: All right. Finally, Margaret Prescod, KBFK in southern California, in Los Angeles and my audience coming very much from the reality of the inner city, east Los Angeles as well as south Los Angeles, although our range is from Santa Barbara all the way down to San Diego.

Since I am just getting now to ask my questions, perhaps it is a bit unfair to the panelists because some of them have to do with issues that were raised earlier. And one has to do with an issue that might be for the next panel, but I'm not quite sure I'll get to the mike again. So why don't I do this.

There has been a lot of talk of marriage as a solution in the Moynihan report. I remember the Moynihan report. Now, that strategy didn't work then. And I'm wondering what makes this body or people who have been putting it forward to think that it will work as a solution now, just getting down to the reality of it.

Also, within that, I got, after I agreed to come here, an e-mail from some of the other commissioners who are not here, Michael Yaki; Arlan Melendez; the Vice Chair, Abigail Thernstrom, complaining about the fact that they have not had input into this particular gathering. And they raised

the issue on civil rights, for example.

We talk a lot about marriage. There has been no mention of the fight for gay marriage, for example. And are you including that when you are talking about marriage and putting forward marriage as a solution?

And the last thing has to do --

COMMISSIONER GAZIANO: Why don't we just stick to the first question? And I would --

MS. PRESCOD: Well, can I finish my other question since I'm not sure I can get to the other mike, get back up here again?

COMMISSIONER GAZIANO: Why don't we just take them one at a time, especially since -- and, by the way, I'll --

MS. PRESCOD: Well, I'll wait and --

COMMISSIONER GAZIANO: -- save you from the second question since that is more properly addressed to us, but with regard to her first question about the Moynihan report?

DR. WAX: Well, I'm a little puzzled because, you know, you say, well, the Moynihan report, you know, touted marriage and it's been tried, it's failed. I think after the Moynihan report, we went in exactly the opposite direction. I think we went sort

of on a tear of aggressively celebrating family diversity. And I know that that was well-meaning, but I think ultimately it has been sort of pernicious.

And this goes back to the responsibility of the leadership class. I'm sorry to have to say this, but I think the leadership class, the Ivy League and, especially sort of the white educated class -- and I'm sort of a card-carrying member. And I am an Ivy League professor. So these people are all around me.

I would have to say that I think that on an important level, they are morally bankrupt. Okay?

MR. JONES: I agree.

(Applause.)

DR. WAX: They have really sold out the rest of society in a self-serving way. And let me just put it this way. They talk the '60s, but they live the '50s. All right?

And if you look at the data, you know, despite all of the media hype about Murphy Brown and these fast lifestyles, the upper-middle-class whites are the most married, least divorced, most conventional class in society. And their kids are making out like bandits because of it.

And because they're touting all of these

alternative lifestyles, they're selling the rest of society down the river. And people who have less education and fewer resources are really not as well-equipped to deal with all of the difficulties and the complications of these alterative lifestyles.

MS. PRESCOD: What do you mean by "alternative lifestyles"? Which lifestyles are you referring to?

DR. WAX: I am talking about nontraditional, nonconventional modes of raising children. And here I am talking specifically about single parenthood, step parenthood, all the different combinations and permutations that have become more -- multiple partner fertility, a euphemism, right.

Nobody, I think, who has any sense can think that a community where there are a large number of people having children by multiple women or multiple men, none of whom they're married to, is a community that can build human capital effectively. I'm sorry. It just can't be done.

So these problems, I do lay them at the feet of the leadership class, which I think has shown bad faith.

COMMISSIONER GAZIANO: Is there anyone else on the panel who wants to?

MS. PRESCOD: They may want to respond to the second part, which has to do with the mixing up of poverty and neglect, because thank goodness I got married again, by the way. I was a single mother for a while because I very much would have felt the sting of much that was said because --

DR. WAX: Wait a --

MS. PRESCOD: Okay.

MS. SWAIN: I am not proud to say this, but I have been married twice. And I believe in the institution of marriage. And I don't know why there are not more younger people getting married.

I am willing to let everyone else have the men that are out there, but I believe in the institution of marriage. And I believe that --

MS. PRESCOD: Would that be gay marriage as well?

MS. SWAIN: That is a whole different can of fish.

(Laughter.)

COMMISSIONER GAZIANO: We need to move on to another question.

DR. WAX: I think gay marriage is irrelevant except, in the Ivy League, that is the only kind of marriage that people praise.

MS. PRESCOD: It's irrelevant, you say?

COMMISSIONER GAZIANO: Okay.

MS. PRESCOD: Okay.

DR. WAX: But apart from that.

MS. PRESCOD: All right.

MR. MASUGI: My name is Ken Masugi. And I have a question for Mr. Stephney. I think it is really more of a sharpening of Todd's question because I was intrigued by your statement that you helped destroy a culture.

I am wondering. I mean, I don't know rap from zap, but our bro Plato said that music controls the mores. And so I am wondering whether there is anything in your artistry or the artistry you promote that might actually help refine our culture.

MR. STEPHNEY: You know, I put out a song. And you can go to YouTube, type in the title "We Must be in Love" by a group called Pure Soul. Through my label in 1995, we distributed the song, which, you know, really is an homage to marriage.

The video that we shot, which was directed by a young man named Keith Ward, who had done videos for all sorts of famous acts of that period, TLC and others, essentially was a video of young people getting married. The young woman, the bride in the

video, was Kelly Williams, who was in the sitcom Family Matters. And they were in their early 20s.

And we wanted to show that marriage and structured family connections were part of the culture, part of the youth culture, more importantly.

And, lo and behold, that became my most successful single for my company. And they became our most successful group. So there was profitability in positivity, if I could coin a phrase. And popular culture can do that and does do that.

If you watch the Disney channel, you know, the Disney channel, in opposition to other youth-oriented, you know, cable outlets, provides movies, High School Musical, some of the sitcoms, so forth, that tend to be family-friendly and tend to be less negative than a lot of the public culture that we have seen over the course of the past 30 years.

I think that part of that may derive from young people who have grown up with divorced and disconnected parents and grandparents, who are looking for stability themselves. So their culture perhaps mirrors some of that.

MR. JONES: Can I make a comment?

COMMISSIONER GAZIANO: Sure. Then Tim, the enforcer, says we only have one more question.

MR. JONES: I just want to make a comment because, Professor Wax, I just want to say how much I agreed with what you didn't say. And that is yes, this whole question -- where is the young lady who talked about gay marriage? I didn't want you to think that -- yes.

I don't think that at least I, for one, am afraid or unwilling to discuss the question or the issue of gay marriage. I just think that, on the issue that we're talking about with respect of raising a family, which will give children an opportunity to have a disciplined structure, that it's irrelevant.

COMMISSIONER GAZIANO: Okay. Thank you.

Last questioner?

MR. KEITA: Yes. Excuse me if my voice breaks a little bit. I am Schmarta Keita. Herb Gutman pointed out in his book, *The Black Family in Slavery to Freedom*, that, while slavery was very successful at destroying families, that after slavery was over, that Afro-North-American people made a tremendous effort to reassemble their families and to even get pieces of paper.

I can tell the story of my own grandmother, who married someone in her church just to adopt the girl next door. And she was 60-something

years old when she did that.

So the question becomes, what happened to an ideology of family within Afro America? And I do not believe that civil rights in its truest and traditional sense, which was about laws, has very much to offer in the way of a discussion about that, which is really something about the quality of life and about culture and about the absence of a meta-narrative of Afro-American life.

What we have not heard here at all today from anyone is a disaggregation of the Afro-North-American community to look at those segments where you don't have any out-of-wedlock births or at least not many or any that are mentioned.

For example, in the Nation of Islam, that is almost unheard of. You don't have out-of-wedlock births, amongst certain groups of Seventh Day Adventists and others.

So the question becomes, what happened to the typical Afro American, North American because there are Afro Latinos, et cetera, Afro-North-American community? What happened to average blue collar communities or the "typical" communities, to which we all are connected? What happened to the ideology around marriage and the ideology around a belief that

one could have a community, a distinct community?

Afro North Americans did not come here as a single group with a meta-narrative. We were not one single African ethnic group. We were many. And out of that, we had to force something in the 1920s in the context of segregation, something that was quasi-successful but never had the kind of ideological glue.

So I would like to raise a question about whether or not using the term "civil rights" is even the right paradigm, the right concept to talk about something that really revolves around the quality of life, the building of community, and actually human rights, which is something that Malcolm talked about, someone who, while he made it onto a postage stamp and, therefore, was co-opted, the best of what he had to say is not often remembered.

And on this thing that --

COMMISSIONER GAZIANO: Okay. Let's let them --

MR. KEITA: Let me just say one other thing. And on this thing that Dr. Wax and Mr. Jones said about people talking about gay marriage, listen, Jimmy Baldwin was gay. But he always talked about how our young men should raise their families. He never

talked about being gay or talking about gay rights. He talked about our families as a community.

COMMISSIONER GAZIANO: Okay. Who wants to address this question?

DR. WAX: You know, just very briefly, I mean, you can talk endlessly about, you can speculate what happened to the black family. And I think I would also like to talk about crime and the high rates of crime in the black community, which is really a very important topic that maybe hasn't gotten enough of an airing. Why is it the crime rates just soared in the '60s and '70s and African Americans were disproportionately involved in that, right?

So we can speculate endlessly, but one of the things I say in my book is, look, we can come up with all of these theories, but they are not necessarily going to help us going forward to find a solution. We really need to look.

My personal theory is that the 1960s really did a number on families. And the poor and more vulnerable and less-educated people, I think, were disproportionately affected.

So it's a little bit of a variant of the rest of society gets a cold and blacks get pneumonia. So the sort of liberationist, the sexual

liberationist, ethos I think was taken a little bit too seriously.

And also this notion that crime is an inevitable outgrowth of oppression and society is criminogenic, that idea was taken a little bit too seriously. But now we are sort of stuck with it. And I think we have to look forward and say, "How do we get out of it?" And the past is not necessarily going to enlighten us on that.

MR. KEITA: Yes. But there are subcommunities within --

MS. SWAIN: I think the problem --

COMMISSIONER GAZIANO: Let the other panelists speak.

MR. KEITA: Okay.

MS. SWAIN: I think the problem has to do with the fact that, even though the black community is considered the most religious community, that there has been an abandonment of core Judeo-Christian values.

The black church needs to be indicted. Many of the pastors are enriching themselves. They have no need for poor people. And we have to go back to first things, that when you had strong black families, you also had people that feared God and took

religion seriously.

COMMISSIONER GAZIANO: Thank you.

Anyone else?

MR. JONES: I just want to say that Bill hasn't acknowledged it, but we have known about it for a long period of time. But what I want to say, Bill, is that what you -- well, let me say it. And I have talked about this with our beloved colleague, you know, Russell Simmons, about this also.

And that is, there was a period of time. And I think that those of you who were successful producers of rap need to acknowledge or recognize this. There was a period of time where there was one major production school of rap which seemed to glorify what can be called gangsta, the gangsta rap, glorified the guns, glorified… rappers were calling themselves, you know, they were calling themselves by names that came out of the gangsta culture, right?

And this music was really listened to and affected the behavior, influenced. That is the best way I will say it. How much? I'm just going to use the word generically, influenced the behavior of young men coming up.

MR. STEPHNEY: Sure.

MR. JONES: Because if you are listening

on your car radio -- okay? -- and you're listening to talking about somebody, "Well, you're going to get the gun and do this and do the man. You know what I'm saying?" --

MR. STEPHNEY: Sure. Yes, yes.

MR. JONES: All right?

MR. STEPHNEY: Absolutely. Yes, yes. You're right. You know, it proved to be a dilemma for me personally, as you know, --

MR. JONES: Yes.

MR. STEPHNEY: -- where I had to leave the music industry --

MR. JONES: Yes, you did.

MR. STEPHNEY: -- because -- you know, I am a musician and a writer, actually, as I started out, and in radio. You know, 15 years in, I started to have more production meetings with both retired and current drug dealers than musicians.

MR. JONES: That's right.

MR. STEPHNEY: And, you know, at a certain point, you say to yourself, "Well, what am I doing? And what is the music doing?" And when I got into the industry, the sort of music that you heard folks make, McFadden and Whitehead's "Ain't No Stopping Us Now," you know, that sort of overcome everything, you know,

make it happen to, you know, where we have come today, there is no question that the culture has been a culprit in expanding a lot of the negativity amongst our young people, but, you know, my conservative friends always talk about competition, that in order to move forward in a free society, you have to have meaningful competition and there must be competitive images and companies putting forth alternative messages that you would be surprised that young people will jump onto.

COMMISSIONER GAZIANO: Thank you very much. I'm sorry. I've got --

MR. JONES: Just one sentence. I don't want to put it on this young lady's head so much, but I am telling you what Heather Mac Donald says --

(Laughter.)

MR. JONES: No. Listen to me. I'm sorry.

DR. WAX: She's okay with that.

MR. JONES: No. Listen. I'm sorry. No. Hold on. Hold on. I don't know whether all of you were here. I don't know whether all of you were here when Ms. Mac Donald spoke. All right? But it was chilling. Okay?

I knew it. I read it on paper. But when I heard her say it, it was so compelling about the

killing fields that take place among -- in the African-American community.

COMMISSIONER GAZIANO: And I hate to have to cut this off.

MR. JONES: Cut it off.

COMMISSIONER GAZIANO: But can we --

MS. TOLHURST: We need to move to a ten-minute break.

COMMISSIONER GAZIANO: Okay. Five to ten-minute break. Please join me in thanking this panel.

(Applause.)

(Whereupon, the foregoing matter went off the record at 2:37 p.m. and went back on the record at 2:47 p.m.)

MS. TOLHURST: All right. Commissioner Taylor is going to start our Panel IV at this time.

PANEL IV: THE WAY FORWARD: SPOTLIGHT ON EDUCATION

COMMISSIONER TAYLOR: Good afternoon. This panel will focus on one of the paths to move us forward to a society where opportunities abound for all, and that's education. It's a sad fact that despite the billions of dollars spent on public education and the passage of desegregation laws two phenomena remain, the persistent achievement gap

between white, black and Hispanic students and the vestiges of historic residential segregation patterns that concentrate minority students in predominantly urban, poor-performing schools.

So what should we do? Our panelists today all have specific programmatic solutions, some academic, some cultural. But our conversation today will focus on four key points: the characteristics of academic success and impediments to that success, the impact of family structure and parenting styles on academic outcomes, the nexus between academic achievement and professional opportunity, and the potential interventions and educational reforms that may lead to better academic outcomes within communities at risk.

We have a large panel. I'm going to ask each panelist to limit their comments to five minutes, and I am going to very much abbreviate the introduction so we can get right to the discussion. We're going to go from the far left with Mr. Armor first who is a Professor of Public Policy at George Mason University with a Ph.D. in Sociology from Harvard and he is the author of many books. Most relevant to this discussion is a 1995 publication called Forced Justice: School Desegregation and the

Law and his 2003 book, *Maximizing Intelligence* and his most recent paper, "Can No Child Left Behind Close the Achievement Gap?" published in 2009.

I'm going to allow him to make his comments and then I'll introduce each panelist before they speak.

DR. ARMOR: From the --

COMMISSIONER TAYLOR: Yes, go ahead from your seat.

DR. ARMOR: From the seat, great.

COMMISSIONER TAYLOR: Yes.

DR. ARMOR: Thank you. I was recruited to this panel fairly recently, like this morning.

(Laughter.)

My comments may be a little disorganized. I want to say three things. First, I got into the field of research in education by having the privilege to work on the Coleman Report, 1965, that was commissioned by the Civil Rights Act. And from that time on, for the next 20 years, I focused on whether school desegregation had an impact on achievement. That was one of the conclusions of the original Coleman Report.

After many years of research I decided that, I concluded that, it really did not have a

substantial impact on achievement. And that was published in my 1995 book.

I got interested at that point in, if desegregation isn't going to close the achievement gap, what are the causes of the achievement gap? And then I spent another 10 years or so researching that question, using some of the really good longitudinal data that we have now on the issue of what kinds of factors contribute to achievement gaps among children.

Basically, my research concluded with where a lot of social scientists have come down that family background and socio-economic status are huge impacts and are the predominant causes of these achievement gaps. And I also want to emphasize what I believe an earlier panelist said, that these gaps are actually measurable as early as age three. And those gaps are large. The public schooling doesn't actually enhance those gaps or decrease them. They sort of perpetuate those achievement gaps.

The second thing I found in that research was that the single most important one of these family characteristics was single-parent families. In that sense, I really concur with the observations of a lot of other panelists that in fact a single parent family -- it's not easy to see statistically, it isn't a

huge correlation, but it has a big indirect effect because single-parent families have less income and they especially have less parenting resources. That issue of two parents account for a lot compared to one parent can be demonstrated in a lot of good research on the family effects on achievement.

Then I turned, the third thing I did, is I turned to schools. Okay. So if we agree that the achievement gap is there from the start of schooling, can schools overcome that gap? And that's really been the thorniest question. That's the one most debated by educational researchers.

The problem is that school effects that we do know are generally -- when we do find them they're very small. So you have the SES, the family background, effects that are very large. You have school programmatic effects, whether you're talking about school resources, classroom size, even the quality of teachers. Their effects are very small.

How do you use those effects to overcome this very large one standard deviation gap that children have, black and white children have, when they start school? Basically, I have concluded so far that -- and I put it this way -- we do not have a known technique, a known technology, that we can

export from all schools to all schools that can close the gap using purely social school program and resources.

That has left me to return back to the family, and I think -- that's where I think we have to turn, as many panelists have said here before. We have to somehow challenge that issue. We have to confront that issue. And I think -- I'm a sociologist. I agree that it's a cultural issue more than anything else.

And there has to be, I think, first a commitment that there is a problem. Right now, we don't acknowledge that that's a problem in society. I think that failure to acknowledge the problem is a barrier in some way to trying to solve or resolve that issue.

So I think that we can't fix a problem or work on that problem until we acknowledge that it is a problem. And that's where I think there is disagreement. We heard some disagreement about that in this panel. But that's where I come down on the issue.

Thank you very much.

COMMISSIONER TAYLOR: Thank you, Dr. Armor.

Next we have Jenny Niles, who is the founder and currently leads the E.L. Haynes Public Charter School located here in the District of Columbia. E.L. Haynes is one of the highest-achieving schools in D.C. and has been recognized nationally for its student growth over the past three years.

Ms. Niles.

MS. NILES: Great. Well, I am honored to be here and I've actually learned about joining the panel about an hour ago.

(Laughter.)

So I'm just hoping I get a little bit more of your gentle encouragement and laughter.

But there is not a topic that is closer to my heart than the one we're speaking about today. The reason that our school, I think, has been able to move towards closing the achievement gap -- and unfortunately we are not there yet -- is that we start with the underpinnings that every student of ours is capable of reaching high levels of academic achievement regardless of what background they join us.

That doesn't necessarily mean that students who have aspects of their lives outside of school that make it tough don't impact their

schooling. But we've been able to demonstrate that we've been able to make a tremendous difference in their lives and in fact have been moving to dramatically close that gap.

As you probably know, a public charter school has three things that's consistent across the country. One is that it's publicly funded. Two is that it has an open random lottery to admit students. And the third is that it's an accountability agreement meaning that, if I am not able for our school to produce results, the chartering authority can close down our school, can pull our charter.

I am somebody who, while I am passionate about education reform, the fact that we're a charter school just happens to be the format that we find is most useful to do what we need to do about being a high-performing school and about being a high-performing institution. And I can talk about those kinds of things if you are interested in it later.

I think that one of the things that was mentioned to me that parental engagement is of particular interest especially given different family structures that we have of students who attend our school. Our school, the basic belief is that every single one of our parents wants the best for their

child and that's the absolute starting point that we have for all our families.

We have 100 percent parent participation. And we have that because we will, I sometimes like to say, love parents to death or drip, drip, drip. We will keep calling, keep calling. I've arrived at grocery stores to meet a grandparent who is my checkout, the person at my local checkout, to have a conference about a student. I've gone into offices. I've gone -- will go anywhere and do anything to make sure that that parent feels connected with our school, because that is one of the key pieces for a kid's success, although we actually still have had success when parents haven't been able to engage, and certainly when they're not able to engage at the same levels.

I think that I will close with -- I meant to mention this before but just so that you have a sense -- when we first opened the school our first year our scores -- and D.C., for those of you who are from D.C. are very familiar with the D.C. CAS. That's our state level test -- we started out with having 30 percent of our children proficient or advanced in reading and 20 percent of them proficient and advanced in math. This year we had 67 percent of those kids

proficient or advanced in reading and 70 percent in math. So that's a great increase.

And for our -- just to look at -- and when we look at the different subgroups, while we haven't closed the gap, we have dramatically reduced it. So most of our subgroups are nearly at that 60 percent mark as well.

But thank you for inviting me today.

COMMISSIONER TAYLOR: Thank you.

(Applause.)

Our next panelist is Dr. Gant who is the Director of Urban School Services with the Association of Christian Schools International. And Dr. Gant's work focuses on schools and educators targeting and serving low-resource, minorities, at-risk, and educationally-vulnerable children.

Dr. Gant.

DR. GANT: Thank you.

You know we're kind of like, Bill talked about, one of these sounds is not like the other. We're kind of like the parable where the invited guest didn't show up and so the invitation went out to go on the highways and the byways.

(Laughter.)

And just scrape up whoever can occupy -- I've got a

feeling here.

You know, I come at this from a very personal background because I can relate to this population of young people that is most educationally-vulnerable and who are most socially at risk in our society. I grew up in Mobile, Alabama. Spent most of my life in Birmingham and born in public housing.

As a matter of fact, when we moved to the projects my mother often reminded us that that was an upward move for us. You know, that was like moving to the East Side. From where I was born, she was the daughter of a sharecropper and only afforded an 8th grade education herself in Perry County where she grew up in Alabama.

But she knew the value of an education. And so she purposed that her five boys were going to get a good education. It was interesting. As I was working on my doctorate degree and doing the history of how faith-based schools served disadvantaged children, particularly in the Catholic and Lutheran traditions, I asked her about it, because I remember going to a -- starting out in a faith-based school.

And she said, "Oh yeah. Faith Lutheran Academy. All of you went to that school." And I said, "Momma, why did you do that? Why did you put us

in that school?" And she said, "Well, you've got to understand. Growing up in Mobile, Alabama in the '50s, at that time you were only afforded the opportunity to attend one public school in the segregated south." And she said that that school was in such deplorable condition, "I was determined that you wouldn't go there." She said, "Because I knew that an education was the way out. And I was determined that my boys were going to get a good education." And I said, "But we were living in the projects. Didn't it cost for you to put us into that school?"

And then the next statement that my mother made, as I hung up the phone from talking with her, I purposed in my heart that this is what I wanted to spend the rest of my life doing. Because she said, "Oh yes. It cost me." She said, "Why do you think I was leaving the house every day to go clean other people's houses?" She said, "I was determined to do whatever it took for my boys to get a good education." She knew that education was the way out.

And that remains true today. But the reality is that, you know, despite all of our talks about education reform, etc., etc., the system is just not producing and that's because, now in the nearly 35

years that I have been doing this, I've shifted focus to really one of solutions and no longer trying to become an authority on what's wrong.

And the solution is -- one of the solutions, as we've heard here, is a new genre of schools that I describe as AVC, that are academically excellent, values–based, and character-shaping. A new generation of schools in which the educators engage in what has happened to every one of us in here I would guarantee to point to a teacher, a coach or someone who had a profound impact upon our lives. We call that life-on-life transformational teaching and we need a generation of schools that are not just going to specialize in the academics. Because the one thing that we have in common is that all of these children at least start out in somebody's school. That's the point where every child's life is touched.

And this new genre of schools takes these children and says, "I'm not just going to teach to your head. But I'm also going to try to inspire your heart and influencing these children where the gaps of their lives because of the parents that are not there" which no government is going to come up with a policy that's going to make fathers act responsibly.

The people who are currently touching

their lives, as we've heard, can be further equipped to be that transformational individual in the life of this child, to say to them, "You have been told. You have seen it this way. But I'll show you a more excellent way." And that these children are inspired despite their circumstances, despite the absences of their fathers, despite the irresponsibility of their parents, which they have absolutely no control and we can't control. But someone who is touching their lives said that, "I'm going to live before you and seek to instill in you a more excellent way." Transformational teaching that can transform this generation of young people.

Thank you.

(Applause.)

COMMISSIONER TAYLOR: Our next panelist is Dr. Moses, who is the Founder of the Algebra Project, a national nonprofit organization that uses mathematics as an organizational tool to ensure quality public school education for every child in America. The Project has built upon more than two decades of research and curriculum development around mathematics education for low-income and low-performing communities.

Dr. Moses.

DR. MOSES: So hi everybody. I was an invited guest.

(Laughter.)

And I showed up. And I was told I would be given ten minutes.

(Laughter.)

So if you don't mind I'm going to try to take my ten minutes.

And I want to start with a story. It's the spring of 1963. I'm on the witness stand in the Greenville Federal District Court. My lawyer is John Doar. He's Burke Marshall's assistant. Burke Marshall is the Civil Rights attorney for the Justice Department. His boss is Robert Kennedy. President Kennedy is still alive.

In front of me is a court room packed with sharecroppers standing around the wall. Judge Clayton is the Federal District Judge. He leans over and asks me a question. "Why," he wants to know, "are you taking illiterates down to register to vote?" Sharecropper illiteracy was the subtext of the right to vote.

It happened in Mississippi in 1875. In 1875, Democrats, by terror and violence, took over the Mississippi legislature and William Alexander Percy

became the Speaker of the House for just one term to oversee the impeachment of Adelbert Ames, the Republican governor. Percy had one policy statement that he wanted to get into the articles of impeachment.

The Republicans had voted money for the education of the freed slaves. Percy saw that that statement was changed, that that money was used to build the railroads in the Mississippi delta to start the process of sharecropping and sharecropper education.

So sharecropper education was the legacy of this country. Every reporter that came up to me during those times asked me the same question. He said, "Bob, why are your people so apathetic?"

So I had to think about that. What did it mean to say that these sharecroppers were apathetic? And what were we going to do to actually look at them and say to them, "Where is your energy"?

So what it turned out was that the meeting place turned out to be the place where we could tap into the energy of the sharecroppers. That is, we figured out how to run a meeting so that sharecroppers could participate in that meeting and decide on little things that they wanted to do about their condition

and then go out and do them.

So the meeting place became the place where sharecroppers were to call self-help happened. I called it the beginning of an earned insurgency. They had to be insurgents against the State of Mississippi and they had to earn their insurgency. They had to earn it facing economic deprivation but also facing bullets and murder.

They weren't alone. The 1957 Civil Rights Act actually gave us what I called our legal crawlspace. Mississippi could lock us up. I was in jail five different times in five different counties, but they couldn't throw the key away. The Justice Department, every time I got locked up, came down and turned that jailhouse key, and that was the only reason we were able to actually organize in Mississippi, because there was a little piece of Federal legislation that allowed us to actually do that work. So if we're talking about what's internal and what's external, what is it that people have to do to help themselves and what the government has to do to help those who are trying to help themselves, we should look at that example.

Now with the Algebra Project the issue has changed from -- and what makes algebra a force around

which we can organize because, in the 1960s, we were using the right to vote as an organizing tool to get political access.

So what we are doing now is using algebra and math as an organizing tool to get educational and economic access. What allows us to do that is the shift from industrial technology to information age technology. This is a huge shift.

As you know, industrial technology has mechanized physical work. Information age technologies have nothing to do with that. They organize what we think about. And so we have the idea of a knowledge economy and the idea of critical thinking and that kids have to be educated into 21st-century jobs.

So the Algebra Project has taken on this idea that we can use math because of this shift because, with the industrial technologies, reading and writing literacies were the requirements for citizenship and access to economics. There is a new requirement, because of information age technologies, that's a quantitative literacy requirement. And so the Algebra Project has taken on how is it that we're going to mount with the young people that we've been talking about here an earned insurgency around their

education to do what everybody says they don't want to do.

So I began this work. I'm a father. My wife and I have four children. And my job in the family was to do the math. My wife did the language arts. And I started out with my kids as they went into the first and second grades because I looked at the school and we wanted them in public schools. But we wanted the schools to work for them. So as we started out I started working with them at home.

One thing I discovered was it was better for them to take one textbook and do it for two years than to keep doing a textbook every year. So my oldest daughter, when she hit the 8th grade, she had done the 7th grade book for two years and she was ready for algebra. But they weren't teaching it.

It happened that same year I got this MacArthur fellowship which said, "Okay. You've got five years. You can do what you want. You don't have to look over your shoulder." So I went in to her school as a parent and started teaching her and three other kids who also had asked to do algebra. And so that's how the Algebra Project started.

And then I took a look around and saw "Well, here are some kids, my daughter and three

others, who were doing algebra. And here were some kids who were on grade level. And here are some kids who are below grade level." And my movement instincts kicked in and I asked myself, "Well, what would it look and feel like? What would it take for all of these kids to be doing algebra?" So that's how the Algebra Project started. That was in 1982.

In the mid '90s, we were back in Mississippi and I was working with the grandchildren and the great grandchildren of the sharecroppers that we had worked with in the '60s. We started out in the middle school and we had a group of 8th graders that had taken the algebra test for Mississippi. And I asked the principal of the middle school to walk with me over to the high school because I wanted a soft landing for them in geometry in high school. That was in 1996.

And so I started teaching at Lanier High School and I was teaching there for ten years from 1996 to 2006. I started out teaching a little geometry and then they asked me to teach a full load. So that was 150 kids, six classes a day.

And then they asked me if I would do some more algebra. So I did. And my kids did better on the statewide test. But I didn't ever look at that

statewide test. What I did was make sure that the kids learned something. And if it took six weeks to teach that something, I took six weeks and taught that something.

What happened when they came to take the statewide test, what happened was they had learned to sit and pay attention and pay attention and work at doing something. So they took their time on the statewide test and they did better.

When the school asked us to do more with the kids with algebra, because I'd been there already six years, I said, "Well look. If you want these kids to do well" -- And this was the lowest-performing school in Jackson, and Jackson is the lowest down there in Mississippi, and Mississippi is near the bottom of the nation. So I said, "If you want these kids to do well, they have to double up on their math." They were in 90 minute-periods meeting every other day. I said, "They have to do math every day for 90 minutes. You've got to cut down the class size, and those of us who are teaching the Algebra Project, we need to meet together every day to figure out what we're going to do."

So that began the idea of following a cohort of students for four years through their high

school. Those students that we started in 2002 graduated in 2006 and what we were asking them to do was to step up to the plate, because you can't make them double up on their math for all four years. And even if they didn't want to, we were asking them to be willing to do that.

Now on our side what did that mean? It meant that we had to figure out what to teach and how to teach it so that they were willing to do it. Well, that idea of working with cohorts, and we worked with them not only in school but after school. We visited their homes. We talked to their parents. We organized stuff for them in the summer. I took them wherever I went to speak so that they could hear that the issue they were dealing with was a big public issue.

We took that program to different places. We took it to Miami working with Haitian Americans there. We worked with the National Science Foundation. We got mathematicians interested in working with these kids. They developed materials for them.

We have programs now in LA, Mexican Americans and African Americans. We have a program in El Dorado in Illinois with White Appalachian

Americans. We have a program in Mansfield, Ohio with rural Americans. We have a program in Ypsilanti County. We're working with universities, the University of Michigan, Ohio State, Southern Illinois University, Occidental College, USC.

The issue that we're trying to say is there's a way to reach these students. We're working with students in the bottom quartile of the nation's failing schools. We're working with students who otherwise drop out of school. And the issue that we're saying is there's a way to reach through to these students when they reach high school to get them to organize their peer community and to make it work for them, not against them.

And it doesn't matter about their family situation. They're in school. They have to do something in school. They can decide that they want to do something for themselves. So there is a way to reach through these students and it needs support.

Now the other thing I want to say and this has to do with the policy issue. I just talked about what I think of as the internal issue, the issue of what I think of as an earned insurgency on the part of these students.

But the country has to do something also.

The country has to face up to the fact that, since its founding, it has never committed itself to educating all the children in the country. And if I think about the Civil Rights movement, I think about the Civil Rights movement that, with the sit-ins, we were able to get Jim Crow out of public accommodations. That was the message of the Freedom Rides. They made it crystal clear that as they moved from state to state they wanted to be considered citizens of the nation, not citizens of the state through which they rode.

The same was true about voting in Mississippi. The sharecroppers wanted to be considered citizens of the nation, not citizens of Mississippi for purposes of their right to vote.

The same was true about the Mississippi Freedom Democratic Party when Fannie Lou Hamer went before the National Democratic convention. She demanded to be considered as a citizen of the nation to be able to participate in the national party structure, not as a citizen of the state of Mississippi.

And the same has to be true for all of our children. They need to be considered for purposes of their education as citizens of this nation, not primarily citizens of the state in which they school.

And for that reason the Algebra Project and its offshoot, the Young People's Project, is advocating for a Constitutional amendment that says that every child in this country is entitled to a quality public school education and that what we need to do is overthrow what is currently the law of the land through the *Rodriguez* case which says that there is no substantive right to an education at the federal level in this country.

And there's a young man here, Javier, who has come from Chicago who is a representative of the Young People's Project, and I hope as part of this Q&A about this issue that you will hear him. I think the best thing that the Algebra Project has done is that over the last 25 years it has grown a group of young people who are taking on for themselves over the next 30 years the idea that they are going to grow in this country people who are ready to adopt and promote a Constitutional amendment to say to the country that every child in the country deserves a quality public school education and that right is protected by the Constitution of this country.

Thank you.

(Applause.)

COMMISSIONER TAYLOR: Thank you.

And our final panelist before we start the Q&A -- I'm going to dive right into it -- is Robert Woodson, who is the Founder and President of the Center for Neighborhood Enterprise, often referred to as the godfather of the movement to empower neighborhood-based organizations. And for more than four decades he has promoted the principles of self-help and neighborhood empowerment and the importance of the institutions of a civil society.

Mr. Woodson.

MR. WOODSON: I too am a minority on this panel. I was invited.

(Laughter.)

And therefore I want to take my time to address our mission and that is to talk about solutions. But I also want to act as Amy's agent just to compliment her. Usually in D.C. when you have conferences when the subject is race, most of it is patronizing, particularly to blacks, as if we are a victim's class. And so it's refreshing to hear honest dialogue on the issues of race.

Something else, as a former Civil Rights activist having led demonstrations in the '60s, one of the things that bothered me, at least, concerned me with Dr. King, he said, "The highest form of maturity

is for anyone to be self-critical," the capacity to look into yourself, recognize where you're making mistakes and then take corrective action. My grassroots leaders say, "If you want to do something you ain't ever done, if you want to go someplace you've never been, do something you haven't done." Or as I say, "If you keep doing what you do, you keep getting what you got."

And in the Civil Rights movement, we've got to understand that there are issues that are beyond civil rights. But we must be honest with ourselves. Frankly, what I've been calling for is there needs to be in the black community a moratorium on discussing what white folks have done to us.

We have 150 black organizations that spend $3 billion every year coming to wealthy hotels complaining about what other folks are not doing for us. Three billion dollars. That needs to stop. We need an internal dialogue recognizing, as Moses realized, when you lead folks out of Egypt -- it took him, it should have taken about a few weeks. But it took him 40 years because there was too much of Egypt in the Israelites.

And so it is important, I think, when we're looking at internal and external barriers to

self-deliverance, we must recognize and confront external barriers. Yes, racism is a problem, but not the problem that it used to be. It is a problem that we must confront like any other barrier.

But we must stop looking for other people to be deliverers of ourselves. We must deliver ourselves from whatever circumstance. The victimizer might have knocked you down. But if you wait for the victimizer to come pick you up they need to take you to a mental institution.

And so what we have done at the Center for Neighborhood Enterprise is recognize on the issue of solutions that we believe that civil order, and that is peace and the absence of violence, is a critical civil rights for anyone in this country. And there are some troubling questions that maybe this panel or others can raise and that is why, since 1954 there were 90,000 blacks in prison when we were 12 or 13 percent of the population. That was our percentage in the population. Today that's grown to 900,000. Has racism gotten worse during that period? Are there other factors?

Another troubling question we must address is, why are black children failing in educational institutions run by their own people. So obviously if

race were the primary issue, then that question must be addressed.

But what we do at the Center is, rather than spending our time debating these, we roll up our sleeves and get to work. We must recognize that civil order is important and peace in order for children to have a good education, whether it's in a charter school or private school or a public school. There must be order.

Most of the children going to our schools who are truant, who are absent from school, are fearful that something will happen to them. In Washington, D.C., 12 sixth graders tried to commit suicide because they were bullied by the children. And so we have this high dropout rate. But yet education reform acts as if there is no violence in our schools.

So what we do at the Center for Neighborhood Enterprise is that we recognize that a lot of these societies or communities where we have 70 percent out-of-wedlock births, those dads are not coming back. So we've got to come up with alternatives for those kids.

And what we do is recognize -- I grew up in Philadelphia, Pennsylvania. And I dropped out of

school. And I have a GED. Why? Because my fellows, seven of them, was one year older than me and they graduated and left me unaffiliated.

When you grow up in an inner-city violent community, your group is more important than your family. If someone said to me, you can have your seven fellows over here or your family, it wouldn't be a choice. I'll take my fellows, because my nice loving parents can't get me to and from school safely. But my fellows can.

And, recognizing that reality, what we have done at the Center is that we look into the community suffering the problem and say, "What can we do with a resource?" In other words, if you want to develop a venom, you take some of the venom from the snake, right, to create the antidote, the poison, the cure to the poison.

We go into communities that are at risk and find out what are the capacities there. In my native Philadelphia, it used to be the youth gang capital of America. There were 48 gang deaths a year. They used to publish the Vietnam deaths right next to the gang deaths.

It was an enterprising woman, Sister Fata, who I call her a social entrepreneur, she and her

husband recognized the oldest of her six sons was a gang member. And so she said to this boy, "Bring your friends home. I don't know anything about gangs, but I know something about family." So she sat these 15 boys down with her six sons and they talked all night.

And she said, "Well, move in with me." She took out all of her furniture and put mattresses all over and said, "We have to live together. We have to cooperate. And we have to be clean. And we all have to work." And her husband, who was an old gangster we call OG, negotiated with the local gang to let them come in.

The long and short of it is this family thrived. Within two years they retired her mortgage and bought the house next door and the one next door to that. When the word went out that there was sanctuary within this community, there was a knock on her door. Within five years it expanded to five houses and over 65 young men. She took what she had learned about reaching the hearts of young people, not through fear or intimidation or through a social program, but inspiring them by her example by being a character coach and a moral mentor.

And as a result she said, "Well, if it works for us, why can't it work for the rest of the

city?" So she sent the word out through emissaries to all the active gangs, and in '74 they had their first gang summit. That was the first year Philadelphia cancelled the Mummers' Day Parade because they said, "If you bring all these crazies together it's going to be chaos."

Well, she brought them together and it wasn't chaos. And as a result of this gang summit, Philadelphia went from 48 gang deaths down to two in one year, and it stayed that low.

I came behind her as an activist academic and studied what she did for three years and I wrote a book called *A Summons To Life*. And with that, it caught me with a mission to go around the country and look for her counterpart in different cities and I brought them, within two years, together with other young people who had been transformed. And there's a second book called *Youth Crime and Urban Policy: A View From the Inner City* where I listened to the young people whose lives had been touched and transformed. They are the experts, not these academics at Harvard.

The Harvards of this world can never solve the problems of the Harlems of this world. It must be incubated within the community suffering the problem. You must learn from the people who have suffered but

who have transcended and transformed and overcome these difficulties. They are the real experts.

So the Center for Neighborhood Enterprise, gathering this information, we formed what we call now the Violence-Free-Zone. We now know what to look for in these cities. And so we now have in 38 schools in six cities Violence-Free-Zones where we go into the most violent public schools.

We work with a local operating partner nonprofit. We help them to identify young men and women. Some of them are former drug dealers. Some of them are ex-prostitutes. Half of them are not. They just love their community. They share the same zip code with the kids experiencing the problems, both cultural and geographic zip code. They operate as hall monitors. They give their cell phone numbers to the kids. They are moral mentors.

And as a consequence we concentrate on 10 percent in any community whether it's a school or a community. If you have 1,000 kids they are influenced by 10 percent and that 10 percent 10 percent. So if you go in and you influence and transform a small number of people, you can change a whole community.

Well, Baylor University has come behind us now and evaluated our Violence-Free-Zone in Milwaukee.

We're in the city of Baltimore and Atlanta. We are in Dallas, Texas. And we are in eight schools in Milwaukee. Milwaukee now is at a 25 year low in terms of violence because of the presence of eight schools. We were able to reduce violence in the most dangerous school in the country by 25 percent in the first three months because coming to our youth advisors is not snitching.

And so what we do is present surrogate parenting to these very troubled kids, and then these kids are then providing a safe conduct for their peers. And so what we have done is we are like a human body is oriented towards health and the most -- So the least obtrusive intervention is the most effective. We look at these youth advisors as antibodies and collectively they represent an entire immune system.

So we take resources, information, and inspiration and pump these through these systems, these immune systems, and now we have a prototype in 36 schools in six cities that we are now ready to take to the whole nation to demonstrate that when you build on the strengths of a community by going to the people suffering the problem, and the biggest struggle we have is going to professional people and funders,

helping them to understand that with our college education comes a good dose of intellectual imperialism.

We need to learn how to be on tap and not on top. And what the Center does is come behind these grassroots leaders and recognize that they are the real experts. And the challenge when you're talking about reform is how to invert all of what we have done by taking the principles that work in our market economy and apply them to the social economy.

In a commercial economy, only three percent in the commercial economy are entrepreneurs, they tend to be C students. C students -- you see, our A students who are rich come back to the universities and teach. C students come back and endow.

(Off the record comments.)

And so we believe because very smart people have to have all the answers before they make a decision, by that time that they do make the decision, the opportunity is gone. But C students are able to act in the presence of their doubts and uncertainties and make a decision. Our grassroots leaders that we work with who are able to accomplish these great things are our social entrepreneurs.

And the challenge that we have as a nation, how do we grow them and take to scale like we do in our market economy so we take something that's operating in someone's garage and make them a Fortune 500. We need to find a moral equivalent in a social economy to take a social entrepreneur that is successful in six places and expand it to 6,000 places.

(Applause.)

COMMISSIONER TAYLOR: Thank you, Mr. Woodson.

I want to get right into the Q&A. So, following up on Todd's suggestion, this is your two-minute warning. I'm going to ask one question and I'm going to take up the challenge of engaging in a small version of self-critical analysis and ask each panel to comment on this question.

Do we in the black community -- I know we say it and I see the PSAs like everybody else – do we value education? Do we act like we value education? And, if so, what does a community that values education look like? How do they respond? What priority do they make of it? So I ask each panelist. Do we value education in the black community?

DR. GANT: Again, one of the things I

think we have to really focus on because it looks like it's devalued. You know, my mother, again, who was not afforded an education, highly valued it. So, for example, homework for us was non-optional, non-negotiable. Although she didn't have the capacity to help us with it, she required it.

And so what I think we have to focus on, to some degree or to a larger degree, are what I call the controllables. And the controllable that we have, the greatest advantage right now, the one top controllable, is that we have these children seven-plus hours a day, five days a week, nine-plus months out of the year. That is a controllable.

And the thing to do is to instill in this next generation, because we command their attention, is to instill in them a value set whereby, despite what their parents may or may not value, which is an uncontrollable, because how do you get parents to value an education? You cannot mandate it.

You can't come up with a policy of it. But you can instill in children a value for education. So I think there needs to be something of a fundamental shift if you will or an expansion in seeing that our greatest chance is going to be to invest in this next generation.

I borrowed this from the 78th Psalms if you will. Here was a generation that came out, as Bob talked about it, that came out of Egypt that was failing their children. And in that 78th Psalm it says, "Showing the generations to come in order that they may not be like their fathers, a stubborn and stiff-necked generation." So there was something.

There was a paradigm that says that there's something that you can do with children. So this child may have been born out of wedlock, if you will. There is something that you can do with children that would instill in them a different value set than their parents. And I think that's where we're going to have the greatest opportunity of instilling a value for an appreciation for education.

MR. WOODSON: A quick answer. I believe that you've got -- you must study success in capacity. I want to know more about the 30 percent of the households in the black community that are raising children that are not dropping out of school and are in jail and drugs to find out what's going on there. I want to know why the house of prayer serving a very low-income neighborhood, probably 100 percent of the children finish.

Muslim, Black Muslim, children finish

school. Seventh Day Adventist children finish school. We need to have researchers going into these little islands of excellence in these low-income, toxic environments and then explain to us by listening to the parents and listening to whoever is a caregiver what is it that you are doing that your neighbor is not and what is it that we as a society can do to support you and expand this small island of excellence so that others can benefit from what you do.

COMMISSIONER TAYLOR: Mr. Moses, you mentioned the energy needed. Would you comment on your history of channeling that energy and providing it an outlet? Do you see that energy in terms of the educational opportunities in changing the generation that Dr. Gant spoke about? Do you see that energy as you travel around the country and, if so, how do we channel it?

DR. MOSES: So the Algebra Project has really focused on what to teach and how to teach it in math, right? And the idea is that math is a literacy that's on the table just like reading and writing. And so the young people, any young person, is not going to get away with not having a math literacy for 21st-century economic arrangements and also just to be a citizen.

So the question for us that we've been wrestling with is, how do we convince young people that they are able to do math, because the adult population it doesn't matter what ethnic group you're with, the adults in this country don't do math, right? So I think the energy of the young people is tied to the idea "Well, hey, you know what? I can do this." So it's on us as a society to figure out how is it that we think about the math that the kids are learning and we have to think about it not only in terms of how the kids learn it.

Let me give you just one example. I had a young fellow, Ari, who wanted to do algebra because his friends were doing algebra. One of his friends was my son. But he couldn't. He didn't know his multiplication tables.

So I said, "Okay." I sat him down and we did one problem at a time. I just sat him right next to me. When we got to the number line, what I noticed was Ari was getting the same kind of answers. He was getting what I came to think of as the right answers to the wrong questions. So he had his own questions and he was answering them. They just weren't the questions that the book had.

So my problem was then what does Ari need

in his mind so he can understand the question that the book has. So I finally decided Ari has one concept of number. It's the how-many concept. He got it when he learned how to count his fingers and his toes. He needs another concept, another question, about number to go along with it. So I tried to think what should that be.

Finally I said he needs a which-way concept. But then immediately it came to me. Ari already has a which-way concept. He knows which way to the mall, which way home, which way here, which way there. What he doesn't have is his which-way concept around his how-many concept in his number concept. So then my problem was how am I going to put these two together for him so that he can actually assimilate this.

One day I'm walking getting ready to go on the Red Line in Cambridge. If you take the Red Line in Cambridge the first thing they ask you is which way. They want to know are you going in or are you going out. So that's the which-way question.

So then what I thought was what we can do is take all the kids on the Red Line and we can use that experience as a way to begin to get these two questions together because they also make stops. So

out of that came a little piece of math called a trip line which has moved all over this country and got into some very deep math as a part of it.

So the country has to make a decision about whether it's going to produce teachers of mathematics who are ready and able to understand their subject in a way in which they can reinterpret it for the kids that they are teaching. The Algebra Project has been working with the National Science Foundation on this and with some research mathematicians on this. But let me tell you. We really invest a minuscule amount of money in this. We need to really step up to the plate if we are serious.

The kids can do it. But they need people who understand the math and the country needs to produce the teachers who can do it.

COMMISSIONER TAYLOR: As we turn to the Q&A, I would ask each person from the audience to try to limit your question so that we can get through four or five questions from the floor.

Yes sir.

MR. CASTRO: My name is Marty Castro. I am Chair of the State Advisory Committee for Illinois and I'm glad to be here. I want to thank the Commission for putting this together.

It is my hope, however, that in the future that there is a more balanced dialogue, a more balanced perspective, that occurs throughout the day. I think this should be more of a conversation than a monologue and I think not only from the political perspective but, as I look at all the panels, there is an amazing lack of Latinos on the panel. And there's also not an Hispanic on the Civil Rights Commission itself. And that troubles me because a good friend of mine back home in Chicago likes to say, "When you're not at the table you're on the menu."

And I think there are some issues that have come up today related to immigration and there are some immigration questions that are intertwined with education. And I want to ask you about that. But I think it's important, as we have these dialogues, what we say and how we say it is very important and the ramifications that our words have outside in communities could in fact lead to the very kinds of civil rights violations that we are all dedicated, I believe, regardless of our political perspective, for making sure don't occur. Things ... when you say someone is illegal you're creating a wedge instead of building a bridge and you're dehumanizing a person and that gives rise to folks

feeling that they could commit hate crimes or they can profile someone or they can violate the rights of the United States citizens.

And to that point, *Plyler v. Doe* gives every child, regardless of their citizenship status, access to primary and secondary education in this country. And I'm a proud product of Head Start, a proud product of Affirmative Action at the University of Michigan Law School. English is my second language.

Yet I think some of the discussion that we see today in our country about immigration issues creates that kind of wedge that has in fact denied United State citizen children, or at least attempted to deny United States citizen children, of their rights to a free public education by some school districts that feel that, given the tone of the conversation, we can do that.

And so we're for immigration enforcement, but we should also be for immigration reform, which includes education. I think the best documentation I've heard is an education.

So I would ask this panel to please comment on what they think about the extension of *Plyler v. Doe* to higher education, and to also look at

what your perspective is on the Dream Act, which is part of comprehensive immigration reform which talks about taking children who did come here illegally or in an undocumented status, but were brought here as children in the arms of their parents, who have been raised in this country as Americans for all intents and purposes other than having formal citizenship, who've done well in high school, who are now prepared to move forward to get an education but, because of their immigration status, they cannot access higher education or the resources. And I would like to focus the discussion on that, rather than on the low-level jobs that folks say Latinos and African Americans are competing for. They should not be erased to the bottom, rather raised to the top, to those three million jobs that the U.S. Bureau of Labor Statistics says in this country this year will not be filled because our kids, Latinos and African-American kids, are not being properly educated and trained to take those high-skilled jobs.

(Applause.)

COMMISSIONER TAYLOR: Panelists?

MR. WOODSON: I was invited to talk about the subject that I did. I don't know anything about the issue and I've got the good sense not to say it.

(Laughter.)

DR. GANT: Ditto.

COMMISSIONER TAYLOR: Yes sir.

DR. MOSES: So on this -- Hello. So I would like to just repeat what I said before. For African-American and Latino students, particularly for those who are not making it currently through the school system, our little work that we have done, and we've been working at this now for a quarter of a century, says that they have to step up to the plate. They have to double up on their math. Getting the grades at the state exam, and getting the current grades for SAT or ACT that allows you to graduate from high school, does not give you a ticket to college to do college math for college credit.

And so we have worked very hard to figure out what to teach and how to teach it. And these are for kids at the bottom, because our metaphor is not closing the gap, our metaphor is raising the floor. What's the appropriate floor for every child in this country, so that when they leave high school -- they should graduate on time from high school, and they should leave high school ready to walk their way through college, have the opportunity to do that even if they decide not to do it, and they should not

remediate college math when they get there.

But to do that for the kids at the bottom then we have to have a program which says, "Look. You've got to step up. You've got to double up on their math. And you've got to" -- We on our side have got to provide them with the teachers and the math that allows them to say, "Yes, I can do this and I can keep on doing this." So they're not going to get into these jobs without the math. They're not going to do it.

COMMISSIONER TAYLOR: Yes sir.

MR. KEITA: Commissioner Taylor, you asked the question did Afro North Americans value education and I just want to answer that. Afro North Americans value knowledge. Whether the notion of formal education and formal school seems to work for everyone is another kind of issue. But people do value knowledge and you see that every day with the variety of ways that people ask questions and want things.

I wanted to ask the panel, and wanted to also say that it's an honor to be in the presence of two revolutionaries, Bob Woodson and Bob Moses, who've really put their lives on the line in the old days -- Well, maybe they're not so old, but in ways that really mattered in the past. I wanted to ask the

panel about, in terms of education, something that I'm very interested in about the biology of poverty. We have a lot of data now that demonstrate how poverty, via the neuroendocrine access, actually affects brain development, cognition and certain -- And we can now break it down in terms of which areas the brain is and what kind of knowledge is actually affected in terms of learning acquisition.

So I would make the argument that, unless we address the issue of poverty, and poverty isn't simply low income. It's a particular kind of deprivation that actually induces stress. Unless we address those issues and what Mr. Moses is talking about in terms of fully acquiring that knowledge in that algebra base will not take place. So I would like the panel to address the issue of poverty's impact on cognitive abilities in this quest to realize what in theory the Civil Rights movement gave in terms of a so-called equal education.

DR. ARMOR: I know that poverty has those effects. I'm not familiar with the biological research that you're talking about. But we do know from years of study of the poverty. It's not the money per se. It's the consequences of poverty. That's why the single-parent family is an issue.

The two strongest predictors of the family of achievement and cognitive skill, and this is stronger than anything like education or income, poverty, family structure, the two strongest factors are parenting and that's how much instructional time parents give to their children at very, very early ages, frankly starting in the crib, starting in infancy and also the emotional support that they give.

Poverty works through the mechanisms of this parental instruction and the emotional support by creating a difficult environment for single parents and poor parents to have the resources to be a good parent, and that is less things in the home, less time, less interest in reading, reading materials, the various kinds of stimulations that middle-class parents give. So it's -- I don't think it's the poverty per se in the sense of money. It's what poverty leads to in terms of the stimulation of the child in the very early years.

MR. KEITA: I have to say for the record that there is evidence that links the deprivation of poverty in terms of the stress response to actual neurological and brain development. The science and ecology of early development funded by the NIH at sessions a few years ago demonstrated this,

researchers of the University of Pennsylvania.

So I beg to differ with you that it's only that experience that you talk about. That's a part of it.

MR. WOODSON: Let me just intercede. The question is, and I don't mean this to sound disrespectful, but the issue is, so what? What do we do with regard to solving the problem, given what you just said, and that's the challenge that we face here.

And I'm saying to you that much of what we have done over the past 40 years to do what you are suggesting, address poverty, has often injured with the helping hand. Eighty percent of the money that we have spent to address these kind of problems go to an industry of people who ask not which problems are solvable but which problems are fundable.

(Off the microphone comments.)

Let me tell you. I sat on the NIDA Board where billions of dollars are poured into academic institutions to address those neurological and social correlatives to poverty and most of it is crap. It's there to fund research and enrich academics. It is nothing that is grounded in reality.

And I'm saying let's not get too sophisticated when we throw out these propositions as

if somehow there is a -- The complicated description is synonymous with a complicated answer. It is not a complicated answer. Go into communities where kids have suffered exactly those symptoms and find out why some of them are thriving in spite of those conditions and let's learn from them. Okay. Let's not make this an academic debate.

MR. KEITA: No. And I agree with you, sir. But that is precisely what has to be done. What Mr. Moses talked about in terms of ways of learning how to get around certain issues with students who did not conceptualize problems in particular ways, he instrumentally demonstrated very specifically a method to get around some of that that may be the result of this altered cognitive ability. I didn't throw that out to be pedantic or rhetorical.

MR. WOODSON: That's fine.

MS. NILES: I just wanted to, as somebody who sees -- We have many students who arrive at school and so some of the concrete things that we do as a school and on an individual student-to-student basis is, we can -- One of the things about brain science that's also demonstrated is, there are interventions that can actually change those neuro pathways to rebuild things that might have been. There are kids

that had, for instance, lots of verbal exposure as young kids. And it does take awhile for us to be able to catch kids up. But we absolutely can do it.

And one of the things, I think, that is where we are in education, I would make the analogy to healthcare except for we're a little bit behind. I think that we established that there were standards of care in healthcare for instance. We don't bloodlet anymore. If somebody is really sick, we don't cut them and let the blood bleed out.

We actually do know a tremendous amount of how to make sure that kids catch up with the starting assumption that actually they can which is one that's not there. But those standards of care we have not articulated sufficiently and clearly enough. And the research actually in education is just ridiculously small relative to other countries and other industries.

So I would suggest we actually do have those interventions and they are very much grounded in -- You know, sitting on the same panel with Dr. Moses is a great honor, because we've tried to emulate virtually everything he's ever said, as far as I can tell, at our one school. But there are absolutely things that we can do for individual children to make

sure that they can help mitigate those challenges that they absolutely face from not having those resources.

COMMISSIONER TAYLOR: I'm told we have time for one more question. Two minutes or two more questions. All right. If you'll promise you'll ask one question. All right. Then let's try to get in two.

MS. FLETCHER: I have a fairly straightforward question, fortunately, or at least one that wouldn't require a lot of discussion from me. I'm an intern at the Heritage Foundation and, particularly, I'm working in education.

So my question is, a number of the panelists, both on this panel and the previous ones, have mentioned that, by the time that kids get into school, there is already a big achievement gap there. And there's already a gap by, some people said, age three.

One of the solutions that has been put forward for this, or the idea for a solution, is universal preschool. And I'm wondering, given the comments of the panelists as well on sometimes the unintended consequences of well-intentioned ideas, and academic ideas coming down as opposed to, as some of the panelists have mentioned, ideas coming from the

bottom up but things that actually work in the practical world, what some of the panelists think about universal preschool and using that to close the gap.

COMMISSIONER TAYLOR: Yes sir.

DR. ARMOR: First of all, any educational program that's given to everybody, if it works, is going to help everybody's achievement. So that's one argument for Head Start-type programs as preschool as opposed to universal pre-K. Because, like No Child Left Behind, that's had an effect on achievement, but it's affected everybody and it's had virtually no impact at all on the achievement gap.

The second thing is, there is a big study out now, long-term, the most rigorous evaluation of Head Start, which is the most popular or one of the most popular preschool programs. And it's disappointing but, although Head Start has an impact on cognitive skills, they fade after the first year in school.

That's disappointing to many, but there are some of us that believe, because of the early influences of the family to the extent that you're going to have successful intervention before school, it has to start very early, as in the Abecedarian

Project where children went to intense childcare centers, educational centers, starting at birth. I know that may sound extreme to many of you and it may not be practical in many ways. But if you don't start really early it may not have an effect. Three years old is probably too late, which is when most of the preschool programs start.

MS. TOLHURST: We have to go to the next -- Or maybe one more question.

COMMISSIONER TAYLOR: All right. Go ahead.

MS. PRESCOD: I'm glad to hear the panel and the uplifting stories of success stories. And I hope maybe afterwards to be able to hear from the person from the Young People's Project that Dr. Moses mentioned that we didn't have a chance to hear about.

But I want to comment on self esteem and the relationship to self esteem and performance. What I picked up from what Dr. Moses mentioned and also Robert Woodson has to do with the kind of intervention where a young person or a child thinks that they can achieve something and then to be able to move forward with it.

I did an interview with two domestic workers who in Los Angeles are Latina, who were live-

in, and they earned less than $3 an hour and they work sometimes from 7:00 a.m. until 2:00 or 3:00 a.m. Now, they leave their families to go to take care of other people's families.

So when we're talking about the responsibility, then, of the families to read to that child and to care for that child, she's taking very good care of somebody else's children but isn't able to do the same for her child. So when it comes to, then, the Algebra Project and the gang intervention and all of those complex issues that would then lead a child to really act out and hurt in a kind of post-traumatic stress syndrome, what do you think about the relationship between self-esteem and being able to succeed and knowing that you can learn algebra, which I wish that I had learned. I'm terrible at math.

MR. WOODSON: First of all, I believe that a lot of people rely on advocates for young people when young people really need witnesses. They need someone who is a living embodiment of what it is that they are confronting. A lot of these young people can learn and be inspired more by someone who says, "I've come from that environment. I know what it's like. I've been through what you have been through."

The other thing, to answer your question,

the second part of it, is inner-city moms who love their kids come up with all kinds of creative ways to compensate for their absence. Sometimes they rely upon a surrogate youth advisor or, I'm sorry, someone else in that environment. There is a network. These women, some of them, we have three or four of them go out to work so that the fifth one watches the others' children and they share their income so that the child feels that they are a part of a family.

So there are all kinds of creative ways that people have of coping. But we spend so much time trying to be deliverers of people rather than providing them with the means to deliver themselves from their circumstance.

DR. MOSES: I wonder, Javier, if you would talk about your own struggle with self esteem.

MS. PRESCOD: Thank you.

MR. MAISONET: You said my struggle with self-esteem?

DR. MOSES: If you did.

MR. MAISONET: Actually, yeah. I had a big problem with mathematics, honestly, in high school. My name is Javier Maisonet. I'm from Chicago. So Heather McDonald isn't here anymore, but right there with all the violence, the youth violence,

that's happening in Chicago right now.

But my problem was that my math education wasn't there in school. I don't know if maybe I slept through first grade, through fractions or something. But it just wasn't there for me. There was something that didn't click.

And as I got into high school, my junior year I took my last math course and was encouraged not to take a fourth year of math because I didn't do well enough my junior year of school, which really hurt me in terms of wanting to move forward. So at that time, I joined in with the program called the Young People's Project that just started in Chicag,o actually my junior year of high school, and from there was encouraged to actually learn not just mathematics but how to teach mathematics, how to facilitate mathematics, how to become a youth leader, how to become someone who is reflective, does critical thinking. And currently I'm the Director of the program now, after seven and a half, eight, years, that we are beginning to have this discussion around quality education and what does it mean to actually have a quality education that we're trying to pose to the entire country and the nation to really take a look at this and not saying "I'm sorry" about just

like what the academics think that we need for education. But what is it that the students are saying that they need for their education and how can we better serve them and how can they help us to understand that?

COMMISSIONER TAYLOR: Thank you. Thank you all.

(Applause.)

MS. TOLHURST: We're going to have a ten minute break now and we're a tiny bit behind. So if you could come right back we'll go to our last panel. Thanks.

(Whereupon, a short recess was taken.)

PANEL V: THE FUTURE OF THE CIVIL RIGHTS COMMISSION

MS. TOLHURST: Thank you. I'll turn it over to Commissioner Heriot.

COMMISSIONER HERIOT: Well, ladies and gentlemen, and now for something completely different, we are going to go from talking about civil rights to talking about the Commission on Civil Rights, so maybe a little navel gazing, but let me get started here.

If the value of a federal agency can be calculated on a per dollar basis, it would not surprise me to find that the Commission on Civil

Rights has been among the best investments Congress has ever made. My back-of-the-envelope calculation is that the Commission now accounts for less than one two-thousandth of 1 percent of the federal budget. Back in the 1950s it wasn't very different. That was when the Commission was founded, of course. And, yet, its impact, at least in those early years, we'll talk about the later years a little bit later, but its impact in those early years was dramatic.

I am by no means alone in believing that, without the ground work that the Commission laid back in those early years, there could have been no Voting Rights Act of 1965, no Fair Housing Act of 1968, and even the Civil Rights Act in 1964 would not have been very easy without the work that the Commission was doing during that period. In other words, there would not have been a civil rights revolution, as we know it today, without that work.

This afternoon we're going to be talking about whether the Commission is still delivering value. And I will shortly be introducing you to three distinguished panelists to debate that issue. And you're going to see that the Commission is either very confident of its value, or very suicidal, because we have stacked the deck against us. We have two

speakers who I think are generally going to be on the side of critics of the Commission, and only one defender, perhaps, here; but maybe they'll change their minds as they're speaking. We'll see. So, I think this is going to be very interesting. But allow me to lay just a little bit of historical groundwork before we go to our speakers.

The Commission is celebrating its 53rd anniversary this year, but in my view, at least, there have been two Commissions over the years, not just one. And I think it's valuable to make a distinction between the two Commissions that have existed, and the two laws that created them. The first was, of course, the one created by the Civil Rights Act of 1957, and that Act, for those of you who don't follow these things, was the very first civil rights legislation passed by Congress since the Reconstruction Era, so there was a long period where civil rights was not on the Congressional agenda.

Some people like to look back at the `57 Act and characterize it as a weak Act, because it didn't confer any new rights, but I prefer to see it as a vital building block. It created two very important institutions; the Commission, and the Civil Rights Division of the Department of Justice. You

heard Dr. Moses describe, during the previous panel, how Civil Rights Division attorneys were very helpful in being the get-out-of-jail card for some of the greatest heroes of the civil rights movement.

I actually had lunch over the weekend with an early staff attorney from the Commission, and he was telling me stories that, as a Commission staff attorney, he was also going down to prisons in the deep south and getting civil rights activists out of prison. But that was not the main function of the Commission.

I like to think of that early Commission as the Fact Finding Commission. As then Senator and Majority Leader Lyndon Baines Johnson put it, the Commission's task was, and here's the quote, "to gather facts instead of charges." He said, "It can sift out the truth from fancies, and it can return with recommendations that will be of assistance to reasonable men."

Well, people today sometimes don't realize that some basic facts were, in fact, in dispute in the 1950s and early `60s. Not everyone agreed, for example, that blacks in the south were being systematically prevented from voting on the basis of their skin color. They thought that literacy tests

were being fairly and even-handedly administered, and that these literacy tests were, perhaps, a good idea. It wasn't clear in 1957 that it would be necessary, even desirable, to keep the Commission going indefinitely. It was commissioned, among other things, to figure out just who was registering to vote, or who was being prevented from registering to vote, during that period. But in 1983, Congress reconfigured the Commission just a bit, and most important it added independence to the Commission. There had been a dispute at the time about whether or not Commissioners could be fired by the President, and Congress stepped in, created a different Commission, and created six-year terms for Commissioners, made them independent of both Congress and the President, and the focus changed, too.

Congress directed the Commission to write a yearly report on Civil Rights Law Enforcement. The `57 Act didn't talk about Civil Rights Law Enforcement, because there were no civil rights laws to enforce at the time. But by 1983 there certainly were. And that Fact Finding Commission turned into what I call a watchdog commission, an independent body composed of eight Commissioners who work part-time beholden to no one, at least that's the ideal.

We, on the Commission, have day jobs that don't depend on civil rights policy, as usual. I, for example, am a law professor. Several members of the Commission are lawyers. We have a social scientist, we have one tribal leader, and one recent member was a stay-at-home mother. That allows us some independence and outlook that may be more difficult for people who work within the federal bureaucracy, people who work in the Civil Rights Division of the Department of Justice, people who work for the EEOC. And, for that matter, people who work for traditional mainstream civil rights organizations.

We, on the Commission, hope and like to think that, on those occasions where the emperor has no clothes, that we will be among the first to notice. We'll talk about whether it's working out that way, because, along with an independent Commission, we also have a very contentious Commission. We also have sometimes, in our worst moments, a somewhat chaotic Commission, but we have our good moments, too. But I'm going to leave it to our speakers to tell us about both the good and the bad.

We have today three speakers, and they are going to speak in this order. First we're going to hear from Russell Redenbaugh. Russell Redenbaugh is

currently a portfolio manager at Kairos Capital Advisors, and previously from 1969 to 1999 he was a partner at Cooke & Bieler, Inc., a Philadelphia-based investment management firm.

[Inaudible comment from Mr. Redenbaugh]

COMMISSIONER HERIOT: Oh, I'm just getting started. I'm just getting started here!

What we care about is the fact that you were a member of the Commission on Civil Rights for 15 years, I believe. And most importantly, most importantly, for those who like to be entertained by these bios, is the fact that in 2003, 2004, and 2005, Commissioner Redenbaugh won the Gold Medal in the World Jujitsu Competition held in Brazil.

Then we're going to have Mindy Barry. Mindy Barry is a litigator in private practice in Michigan, and is an Adjunct Professor at the University of Detroit-Mercy School of Law. She served as Chief Counsel, Oversight and Investigations for the United States House of Representatives Committee on the Judiciary, where her jurisdiction included oversight of the activities of the Civil Rights Division, and the Commission. She was also active in oversight of civil rights legislation, including the Voting Rights Act, and the Americans with Disabilities

Act.

Then we will have Ken Marcus. Ken Marcus holds the Lily and Nathan Ackerman Chair in Equality and Justice in America at the City University of New York's Bernard M. Baruch College School of Public Affairs. He also directs the Initiative on Anti-Semitism and Anti-Israelism at the Institute for Jewish and Community Research in San Francisco. But before joining Baruch College, Ken served as the Staff Director at the U.S. Commission on Civil Rights. And prior to that, he was delegated the authority of Assistant Secretary of Education for Civil Rights. So, without further ado, Russell.

MR. REDENBAUGH: Thank you. I, too, was a last minute invitee, although I was invited last week, so members of the prior panel trumped me in their recency. I was accused this morning by one of your local papers of being against -- being in favor of closing the Commission, which actually is accurate. I was also accused of being one of the Bush Conservative Appointees.

In large part, I recommended closing the Commission when I testified before Congress in 2005, because the Conservatives had taken control of the Commission, and, in doing that, failed to put in what

I considered were essential reforms for governance for how the organization managed itself.

My feelings have remained the same with the exception of some of what I've heard today caused me to pause a little bit, because one of the things that I think the Commission has not done is maintained its relevance.

Commissioner Gail spoke about the essential work done by the Commission in its early days. I don't think one can say that about the work the Commission has done in its more recent decades. Useful, perhaps, but I would say not essential. Any organization that doesn't renew and refresh itself is likely to continue to do what used to work, and produce rather meager results. Before I go any further, though, I wanted to first acknowledge Commissioner Abby Thernstrom. She's not here today. She's a friend of mine, and I'm sorry that she's not here. I think she would have added a lot. She, as I was, has been frustrated by some of the processes by which the Commission manages itself.

The bit of my background that is important is, I'm not an expert on civil rights. I learned mostly on the job. I was on the Commission 15 years. I'm an economist by training, an investor by

profession, and a designer of business organizations. And in the organization design business, the most important thing are the three Ps that we talk about, purpose, process, and people. No organization can design the right processes and people until it first has a shared and unifying purpose. Then an organization that gets the three Ps right can achieve remarkable results.

I think the Commission has worked itself out of a job, and part of the Commission's early jobs have been taken over by other government institutions. So, unless the Commission finds a new project for itself, I believe it has marginalized.

Now, I have some recommendations for projects the Commission may want to take on. It may be, in fact, uniquely qualified to do some of these. The first one I would say -- you know, in 1963 when Dr. King gave his talk, I didn't pay any attention to it. I was 17 years old, newly blind. I'd lost half my fingers. I was on welfare, and headed off to college. But over the years, I've listened to the King speech many times, but I've never been more moved by it than I was when I listened to it this last time and realized that part of his dream has been fulfilled by my children and grandchildren. Far more than my

generation, their generations have come to regard their friends, and judge their friends, not by the color of their skin, but by the content of their character.

My youngest son, when he was in high school years ago, came home with some friends after school, and after they left I said to him, "Jamie, why didn't you tell me that your friend John was black?" And Jamie was just stunned, he didn't know how to answer that. And he said, "Dad, what would that matter?" Race doesn't show up for my kids' generation in the same way that it has for mine. It often doesn't show up for me, but that's because I'm blind.

So, I think someone needs to, and the Commission could undertake this, someone needs to convene and sponsor a national conversation, not on race, but on civil rights. Notch it up a level from race, not the protections granted to members of a particular race or class, but the civil rights that are inalienable, that we owe to all of us, that are covered in that promissory note that Dr. King said the architects of the Constitution granted to all Americans. That, I think, would be a valuable national conversation, if it were a place where people could -- or a set of places where people could -- express

well-meaning differences of opinions without being called racist.

So often our dialogue is impeded because those of us that aren't black are accused of being racist if we criticize some of the social pathology of the African community. And as an economist, I cannot be so moved by the problems of poverty, but also I know that the problem of poverty is not absence of money, it's an absence of practices that produce money. And dribbling money there doesn't change things.

Going back to some of our earlier panels today, I wanted to say people are stepping around the issue. The federal government has destroyed the black family by forbidding welfare recipients to marry the fathers of their children and forbidding them to work. And the illegitimate rate in the black family is shocking, but the white community didn't start to worry about illegitimacy until the white rate started to rise. And now we're all very worried about it.

And I'm not going to argue, I don't have a basis to argue that that's a cause or a symptom, but it destroys the basis of which progress happens, which is work, save, go to school, and invest. It makes it very hard to accomplish the traditional way to go from

welfare to wealth, as I have done. And I like being rich. I like it so much, I'd like everyone to have a chance for it. But if you don't go to school, you don't.

So, another project the Commission could undertake, I'll wrap this up, Commissioner, is to celebrate the enormous progress that we've made, to celebrate the achievements. This is a nation of heroes. We have heroes. We have many people who achieve great things. We run the risk of becoming victims. The rate of return, I discovered a long, long time ago, for being a victim is positive, but it's very low, and that's why I got off welfare at the earliest possible moment, and went on to build wealth. And I encourage everyone to be as prosperous as they can. Thank you.

(Applause.)

COMMISSIONER HERIOT: Mindy.

MS. BARRY: I think I need to correct by saying I think I'm probably somewhere in between wanting to abolish the Commission, and supporting the Commission. My perspective is, as the Commissioner said, I was the person, the staff in Congress charged with oversight over the agency. And, for me, that meant making sure that what Congress had promised in

the legislation that formed the Commission was being fulfilled.

Before I go on, I just want to say that, as a professor now, one of the first things I do when I stand up the first day of class is explain that yes, I came from Washington, and yes, I worked on one side of the aisle, but I'm comfortable enough in my views, and the basis for my views, that I have now become an Equal Opportunity critic. And I do want to start by saying that there are many reasons to criticize the agency, the Commission.

One thing that strikes me is that there have been Commissioners who have gone on about how important civil rights are to them, and I have no reason to doubt that, except that there's a glaring absence of those people in this conversation now. And when those -- you have to be at the table to have your voice heard. And I think people who have dedicated themselves to the work of the Commission, it's unconscionable for them to just remove themselves from the conversation today. There's no way that the Commission is going to be able to become something that meets the goals of the most people if those people aren't at the table, if they're not in the conversation.

I wanted to suggest some ideas of where the Commission could go from where it is now, should Congress and the White House decide to move it forward. One idea is, the Commission, itself, is supposed to be providing information to the White House and Congress. When I was in Congress and needed information, it was very, very difficult to get information for the reason that the Commission was undertaking projects that often took a year, or even longer to complete.

As someone in Congress, as a staffer in Congress, whose face was something that comes up in the news, and the boss comes running and says what can I do about this? I can't say well, let's ask the Commission, because the result, the answer will be a year from now. The Commission, the staff and the Commissioners, are probably the greatest resource in civil rights in this country in one place. They should be able to provide Congress and/or the White House with the information it needs, so that legislation can be amended, so that legislation can be proposed, so that court opinions that come down that are contrary to what the White House or Congress wants can be addressed through legislation. Having, in my mind, to agree with Russell, not that what the

Commission does now is not without value, but the -- its ability to meet the needs that it has the expertise to provide, it's not -- the mission is not standing up with the function of the agency.

The agency, also, could serve as a type of clearinghouse. The Commission both receives and disseminates information on civil rights throughout the country on a practical basis to organizations, academically in schools. There's no reason that the Commission could not serve as a clearinghouse, and what that would do is, because of the expertise of the Commissioners and the staff who are there, the information, the intake of information could be distilled, and the Commission could serve as an education resource for members of Congress and the White House, who, as you all know, don't have time to read everything that comes before them. And if we want them to understand issues of civil rights, then why not have people with the knowledge and the background to explain not just the facts, but also the implications, the ramifications. What would be needed to do to act on something that is something current?

As I mentioned before, there are court opinions that inadvertently affect civil rights that are handed down in this country all the time. Congress

is very often either not aware of those decisions, is aware of them, but thinks that -- is not sure about how to go about addressing those opinions. The Commission is, also, well-suited to provide that kind of analysis to the White House and members of Congress.

I'm running out of time, and just want to say that I don't want to just offer platitudes. And I have details running around in my mind, so if anyone is interested in sitting down and working on some proposals to further those reforms, I would be happy to participate.

(Applause.)

MR. MARCUS: Thank you. And thank you to Chairman Reynolds, the Commissioners, Commissioner Heriot, for putting this conference on. I'm very pleased to see you. I'm a little surprised to see you. When I was invited here, I was told I could say whatever I wanted to, because you'd all be gone by now.

(Laughter.)

MR. MARCUS: I am the last speaker. I thought that was going to be my prerogative. I guess it's time for Plan B.

It's been about three years since I left

the Commission, but I must say that you've all made me feel very much at home on this return. Anyone here from the State Advisory Committees? Yes, seeing a bunch of hands. Okay. When I arrived this morning, one of the Committee Chairs came up to me and said how good it was to see me, and she said, "You know, I've got a report that's been holed up in your office for two years now. When are you going to release it?" And we need better communication still between the offices here. I wasn't sure. At first I thought, does she mean the City University of New York, because if it's holed up there, it's going to be a long time. Is it at the Institute for Jewish and Community Research, because maybe they're still doing research on it. At any rate, it's good to be here. It's especially good to be back at the Commission at a time when the Commissioners don't get to vote on my ideas, and when Mindy Barry isn't doing oversight.

(Laughter.)

MR. MARCUS: You guys see the title, "New Era: Defining Civil Rights in the 21st Century." I saw that, I sort of froze. I had this flashback. It's six years ago, and I'm talking to the State Advisory Committee Chairs. It's a conference call, and I say we've just begun the process of rethinking what does

it mean to talk about civil rights in a new era, in a new century? What does it mean to think about and define or redefine discrimination, or hate, or bigotry? What is civil rights all about? What does it mean to talk about disadvantaged? What does it mean to do all of these issues?

I think the connection on the call was not perfect. It got into the papers the next day, "Marcus says the Commission still doesn't know what civil rights are. Fifty years in, and they're looking for a definition." I had this image in my mind of everybody sort of scrambling around looking for a copy of Merriam-Webster's to see what it means.

We've had some great talk today on defining or redefining civil rights, and I guess a part of the function of this panel is to talk about how do you implement it, and what does the Commission need to do next. I think it was a visionary move to have on this panel Majority Members who at least at some points in the past have encouraged scrapping it all together.

You know, in the blogosphere, the Commission was actually criticized for having a panel debating its own existence, as if it was a sign of a lack of confidence, or lack of commitment to its

mission, that it would actually have people come together, talk about whether it should still exist. Well, you know, day after tomorrow is Constitution Day. I think every year every agency should have to ask the question, are we still relevant? Are we still required? What should we be doing? Should we even have an agency? So, I congratulate the Commission on this, as well.

The question of what should the Commission do, or should it even exist, has been raised in different ways over even the last several years. Six years ago, there was very much a movement to abolish. The question was, do we still need it after all these years? Is it a victim of its own success? Is discrimination now reduced to the level that there's no need for an independent agency? Or, alternatively, given the number of agencies already dealing with civil rights, from the EEOC to the OFCCP, to the OCR, do we really need another one? Or, alternatively, maybe we do need to look at civil rights, but do we need this bunch of people? Maybe we need to scrap them and get a whole bunch of new people. Or, alternatively, maybe it's not the people, maybe it's the structure. So, there are all these abolition questions, do we need this agency?

The last couple of years, I would say that the conversation has changed a little bit from abolition to dilution. The question lately, to the extent I've heard it from commentators on and off the Hill, and from special interest groups, has been, well, maybe we should change what the Commission does, so it's not so much focused on discrimination, maybe it should be looking at human rights issues, not just domestically, but internationally, maybe it should take on a whole bunch of other topics, as if the Civil Rights Commission doesn't have enough to do. So, dilute its focus.

And I think that both abolition and dilution begin with the same premise, which is that there is no longer a need 53 years later for an independent agency to be focused solely on questions of civil rights. Well, I don't know whether the current agency is the absolute best structure you could have, if you were starting from scratch, but it seems to me that if you were thinking about eliminating agencies across the government, and asking what can we do away with first, and that's not a bad exercise to do every once in a while, I'm not sure you'd want to start with civil rights. I'm not sure that has to be the first thing to go.

I would argue -- and, by the way, I'm very interested that the two preceding speakers who had been known critics of the Commission each had some very strong and compelling arguments for what a Civil Rights Commission could do, and they're very different from each other's, and they're very different from what I'm going to say.

I think that the three basic functions that the Commission has done are still important in the 21st century. First, to monitor civil rights, and to see if there are needs for recommendations. I've run two federal civil rights agencies. I would have found it very useful to have even more data from an independent agency that looks not just at education, not just at housing, not just at employment, not just at labor, but at all of those topics to be able to aggregate data, and provide a better assessment of what's going on in terms of discrimination in America. That's very useful. The Commission has done some of that. I'd like to see a lot more.

I think that, over the last several years, new technologies provide better ways of doing it. And there's been talk, I don't know if there's still talk at the Commission, but I think that that's very valuable, not just monitoring, but providing

recommendations.

We know that the Civil Rights Commission's recommendations paved the way to some landmark legislation, the Civil Rights Act of `64, the Voting Rights Act, Fair Housing Act. The question is, do we need any more? Is the time up? Have we really done everything?

Well, people are going to disagree today, as they disagreed in 1964, `65, and `68 about which legislation, if any, is needed, but there certainly are questions today, certainly are questions. Some have been raised over the course of the last few hours, whether there should be new legislation protecting the rights of gay and lesbian Americans. That's one topic. Another is whether there needs to be more protecting religious minorities; for instance, in education where there's a lack of a federal statutory background. And there are others. So, it seems to me that, beyond monitoring, there is a role for asking the question, should Congress do more?

Second function is to evaluate agencies. The fact that there are now several agencies that are enforcing civil rights means that the Commission has had an even more important role, which is to say to ask well, how are they doing? And there's really no

other agency of the government that has the expertise in order to evaluate that. And maybe the Commission can do more or different along those lines. At one point, the Commission had a series of reports on civil rights enforcement agencies, asking can they do better? I think that that's very valuable.

The third thing that the Commission -- well, let me say one more thing about evaluating agencies. Right now, I would say that the investigation of the Justice Department's dealing with the New Black Panther case. It's very controversial, but it's very important. The Commission is really the one agency, and the one major organization, which has asked the question about whether the Department of Justice is doing the right thing there. And I think that that is very important, and it would be very unfortunate if the Obama Administration or Congress blocked this investigation that's currently ongoing by the Civil Rights Commission.

The third function has been to assess what Congress and the President have been doing. I'm sure that that's not been a favorite of the President and Congress. So, we've seen, for instance, just in the last several months assessments by Commissioners of

1 what is or isn't in the Bail-Out Act or the Health
2 Care legislation, and some very strong criticism by
3 the Commission about what's being done. I think
4 that's very useful, also.
5 All of these are important functions, and
6 there's really no other agency that's in a better
7 place to do it than the Commission. You may like
8 everything the Commission has done, you may not like
9 it. The fact is, considering the difficult issues and
10 the passions that people have about civil rights, it's
11 hard to agree with everything that any one
12 organization is doing, but I think that these are all
13 very important functions which should be done. And
14 since there's no one else doing it, I think the Civil
15 Rights Commission is the proper group to do it.
16 There's this notion that what we need to
17 have the Commission do is to change the dialogue, or
18 engage in a different sort of dialogue about race or
19 civil rights. And I think that that has been one of
20 the important functions of the Commission. That, for
21 instance, the briefings that the Commission has been
22 doing over the last few years have been very useful in
23 terms of elevating a discourse involving civil rights.
24 And I think that that's something that's worth having
25 somewhere, and the Civil Rights Commission is doing it

now.

But, at the end of the day, my own personal bias is for a little less conversation, a little more action. And I think that where the Commission is most useful is where it tells us, the President, the Congress, certainly, but also the American people, what forms of discrimination are out there, what civil rights are being violated, what needs to be done about it, to what extent are the federal agencies doing it? And, if not, what do they need to do better? And 53 years, or 54 years, however much it is into the history of the Civil Rights Commission, it seems to me that that task is one that is not over, and that the work still has to be done. Thank you.

(Applause.)

COMMISSIONER HERIOT: Well, I'd like to think I learned something from the previous panels, and that is we need to have enough time for audience questions. So, I'm just going to start off here, ask a couple of questions. But when you guys get ready to ask a question, just line up at the microphones here, and I'll switch over to audience questions. But let me start off here.

Now, Ken has already weighed in a little

bit on the proposal to change the Commission to include a focus on human rights. Let me throw that one at Mindy, too. What do you think about that proposal?

MS. BARRY: Because I see the Commission as a vehicle for providing information to the policy makers in the country, the President, and Congress, to me, that would be up to them. If that is information they need that's useful, then, certainly. If the Commission is throwing information at a brick wall, then it's not -- then it's wasting the resources and the expertise of everyone in the Commission. So, I guess I can't comment, because the Commission needs to know who its audience is. And it has to provide the information and material that its audience is demanding.

COMMISSIONER HERIOT: Russell, do you have thoughts on that?

MR. REDENBAUGH: I would agree with what Ken said, explicitly, that the Commission focus needs to be increased, not diluted. If someone should do human rights, they should, but we're not uniquely qualified to do -- the Commission is not uniquely qualified to do that. I think it could be a distraction.

COMMISSIONER HERIOT: Another jurisdictional issue that has come up, and was mentioned in the panel description, is the notion of expanding the jurisdiction of the Commission to include issues like the issues that we've been discussing today; that is, family structure issues. And I guess my first question there is, is that already within our jurisdiction, or would we have to go to Congress and ask for permission to have the conference that we seem to already be having? Ken, what do you think about that?

MR. MARCUS: I think the timing is a little funny of the question.

(Laughter.)

COMMISSIONER HERIOT: Sorry about that.

MR. MARCUS: You know, it is interesting, because I think that the Commission over many years has often pushed the envelope in terms of what fits specifically within its mandate dealing with the issues of race, national origin, sex, discrimination, so on and so forth. Much of what the Commission does is straight on dealing with discrimination, some of it is tangential. I think that there has been a lot of talk today about whether certain disparities or disadvantages are the result of discrimination, or

other factors. And, alternatively, whatever the cause is, whether people should act as if they are purely victims, or whether they should act in a different way.

I think that this is sort of -- I think that this particular issue is, at the margins. I think that this has been a fabulous conference. If there is a will to have substantially more involvement in issues that relate not specifically and narrowly to discrimination, but questions about which we talked today, then that is, potentially, a topic for legislation to expand the jurisdiction of the agency. But I would be concerned a little bit about diluting the focus of the agency.

In the event that this Commission doesn't focus on these issues to a greater extent, I think that raises a question of who should, because regardless of whether it's the Commission or not that needs to continue the dialogue that we heard today, I think the dialogue we heard today is a very important one, and it should be carried forward someplace or other.

COMMISSIONER HERIOT: Russell, do you have thoughts on that?

MR. REDENBAUGH: One thing that the

Commission can do much more of, and it has the subpoena authority to do this, is investigate the federal government erosion of our civil rights. Now, you mentioned some of that. I think there's vastly more of that the Commission can do. The erosion of those rights are unintended consequences, but that is a very valuable product.

COMMISSIONER HERIOT: Could you be a bit more specific on what kind of erosion of civil rights you're talking about?

MR. REDENBAUGH: Well, you mentioned earlier some of the civil rights effects of the health legislation, that the Commission is investigating. One that comes to mind that we all are concerned about, and should be, because it affects all of us, is the Home Security, what's that called, the Homeland Security. That legislation I don't think has been adequately vetted, especially after implementation for the civil rights erosions and possible violations that we've come to accept.

COMMISSIONER HERIOT: Of course, our jurisdiction has to do with race, gender, and religion, so we'd have to have a hook there.

MR. REDENBAUGH: As Ken said, in the past the Commission has been able to discover those hooks.

Anyway, I speak from my personal opinion, and something that I see that's needed, that the Commission is very qualified to undertake, and does have the subpoena power. So, you may, in fact, not have the hook.

MR. MARCUS: I do think it's a great idea, and I would certainly like to hear more from the Privacy and Civil Liberties Oversight Board on that, because that's an agency that could be dealing with this, also, and should have specific expertise on the topic, but has not been doing it.

MR. REDENBAUGH: Yes, if it's being done, then no reason to duplicate.

COMMISSIONER HERIOT: Mindy, do you have a comment before we go on to the audience?

MS. BARRY: I'm not so sure that those aren't the exact conversations the Commission should be having. To me, those are not expanding the jurisdiction, but a lot of what has been discussed here today, to me, are solutions, or potential solutions to the problems within the Commission's jurisdiction. And, as someone looking at the Commission from the perspective of Congress, to me, I would have liked to have heard lots of solutions rather than just problems. And I think if the

Commission can work to uncover these kinds of solutions, that that goes a long way in keeping with its jurisdiction.

COMMISSIONER HERIOT: Well, let's take some questions from the audience. Sir?

MR. JONES: Not a question, if I may, I just have a brief comment. I was privileged to be a speaker at one of the other panels, and as I said then, but I do want to expand, I think that the answer is pregnant -- the question is pregnant with the answer. What I'm trying to say is the very question which you pose suggests, in my mind, the answer.

I don't know, I'm not sufficiently qualified or knowledgeable except in a generic way about the jurisdiction of the Civil Rights Commission. I'm generally knowledgeable about the enabling legislation, of course. But it seems to me that when you say a New Era: Defining the Civil Rights in the 21st Century, it seems whoever came up with those words, whoever came up with that suggestion, that, to me, points the direction of where the Commission should be going.

And that part of that, I think, inevitably, will include not only a consideration of a redefinition of civil rights, but, inevitably, it's

also going to involve something called accountability of what has gone on before. And there's nothing -- there's no more greater contribution that a Commission could make to the American people than, indeed, to hold its own government accountable in terms of whether it has fulfilled what it has represented to the people it is doing.

So, therefore, defining civil rights in the 21st century is really where it's at, as far as I'm concerned. And that I hope that whatever discussions have gone before about whether the Commission should be abolished, should be -- its jurisdiction should not be changed, I'm not going to deal with structure. I'm only talking about substance.

I think your mandate should be to define civil rights in the 21st century. And, as I said in my remarks on the panel, this conference and the Chairman, and the Commissioners who convened this conference, in my judgment, whatever they didn't do in the past, I'm not focusing on that. But what they did here today at this place, at this time was, I think, a very significant step in the right direction.

So, I want to go on record for commending the Commissioners for doing that. The commendation doesn't mean that you're exempt from criticism, but I

do want to commend you for doing that. And, as I said, and I'll repeat it again, I can't think of any conference that's more important, or a subject to consider than what you've suggested we consider. With all due respects to the NAACP convention, and the National Urban League convention, and the Student and the Southern Christian Leadership convention, all those conventions, and I have a little bit of knowledge and experience on that, you are focusing on what you should be focusing on for the 21st century.

COMMISSIONER HERIOT: Panelists, do you have any comments?

MR. REDENBAUGH: Nothing except to say that I agree completely.

COMMISSIONER HERIOT: Well, cool. Mr. Schmechel, I've never seen you without a tie on.

(Laughter.)

MR. SCHMECHEL: Thank you. My question is actually about resources, which this may be an issue both sides of the aisle can agree a bit more on, at least some folks. The Commission right now has under 50 employees, down from hundreds. It has, I don't know the exact count now for social scientists, but I think it's probably under three or less. The State Advisory Committees, which there were many members

here before, don't have a chance to meet more than once, maybe twice a year, depending on their particular region and topic. There's so many things that the Commission can do, you're saying should do.

Putting aside questions about broadening the scope of the Commission, the ability to actually do fact finding now, to handle subpoenas, to be a clearinghouse for information, these are, potentially, massive projects which now a staff of under 50 in a shrinking or flat-line budget has had to deal with. So, the question is, what would be the minimum resources for the Commission to actually fulfill its mission, and how does one go about attaining those resources, or working with other agencies farming out some of its responsibilities, limiting its scope, as Commissioner Redenbaugh spoke. Maybe through limiting its scope, it can focus a little bit more on just doing investigations, or just being a clearinghouse for information, or just having public hearings.

I know in the last, I think, six years, there's been one Commission meeting, to my knowledge, outside of Washington, D.C., which was in Nebraska, which there was a gentleman here earlier from Nebraska, as well.

These are tremendous capabilities in the

1 legislation that the Commission is enabled to do, but
2 it hasn't been able to do them. Politics aside, it
3 doesn't seem to have the resources. How do you get
4 them? What are the minimum requirements, and how is
5 that going to limit any future for the Commission?
6 COMMISSIONER HERIOT: Panelists, who wants
7 to field that?
8 MR. MARCUS: Well, first, thank you,
9 Richard Schmechel, I think that's a great question.
10 Certainly, you need to figure out what it is the
11 Commission is focused on before you figure out how
12 much it's going to cost. But, at a bare minimum, the
13 Commission is focused on monitoring civil rights
14 violations in the United States, evaluating civil
15 rights enforcement, and providing some sort of
16 clearinghouse on civil rights information. And, in my
17 view, to do that properly would require a multiple of
18 its funding.
19 Certainly, it can't be done for, and I
20 don't know what the current funding is, but it's been
21 -- it was at $9 million for a while. That may sound
22 like a lot to people who aren't connected with
23 government, but in terms of the requirements of a
24 government agency, it's tiny. And what I would say is
25 that if we take seriously the need to provide

information and data for the President, Congress, and Executive agencies on discrimination and civil rights violations, it should be probably a multiple of its recent funding, not just a little bit more, but a multiple. How you get that, I don't know.

COMMISSIONER HERIOT: Mindy knows how to get that. Right?

MS. BARRY: Well, I'm not sure the -- there's, obviously, different members, and different senators who are there now, and different staff, but it was a very, very, very hard argument for me to go to my boss to talk about funding for the agency when all that he knew the agency was doing was squabbling. And I think that that is the first step, that there has to be a commitment among the staff, the Commission, the Commissioners, and all of the stakeholders to turn a new leaf, and to stop the squabbling and fight for the common good. And to be able to put together a proposal to take over to Congress and say here's what we can do, here's what we think you want us to do, and here's how much it will cost.

COMMISSIONER HERIOT: Russell, do you have a comment on that one?

MR. REDENBAUGH: You get money the same way

any group finds investors, and that's by producing -- building trust, having a shared vision or purpose, and producing reliable and good product. And then people invest behind that. We've proven you can't -- the Commission has proven, when I was there, you can't get more money by promising to be good in the future, even though you've been bad in the past.

COMMISSIONER HERIOT: Good point. Yes?

MS. ZIMMER: Hello, I'm Mary Anne Zimmer. I'm a reporter for Education Week newspaper. And on the website, the description, the Commission said that one of its missions is to provide advice to the President. So, I just wondered has the Commission provided any advice to the President that the President has received and acted on it, or has it provided any advice that it feels the President should have acted on? What's the relationship between the Obama Administration and the Commission? I heard, you know, there's so much talking about civil rights, and increases, and enforcement of civil rights in the schools, how does the Commission play into some of that?

COMMISSIONER HERIOT: I'm not sure we have the right panelists for this, because they haven't been working with the Commission in the last year or

so. But, panelists?

MS. ZIMMER: Well, maybe you could answer it as a Commissioner.

COMMISSIONER HERIOT: Oh, I was told to be a good moderator, and not go into things, but I'd be happy to talk to you after.

MR. MARCUS: Let me try to at least get it started. The Commission routinely provides advice to the President and Congress, but often takes the term President broadly to include the entire Executive Branch. So, much of its advice deals with the way Executive agencies should do their business. And I would say that it does this, certainly, annually in its enforcement report, but also in its briefing reports, which are, typically, although not always, laden with recommendations for the way both the Executive Branch does its work, and what Congress should do. And at least going back several years, I would say there's been a lot of advice coming from the Commission. Most of it is not followed, occasionally it is, and sometimes it's hard to know when the Commission makes a recommendation and something is done afterward whether there's cause and effect, or not.

So, for instance, just a few years ago,

after a briefing on campus anti-Semitism, the Commission recommended, among other things, that Congress improve its hate crime data-gathering processes for higher education. And within two years or so after that, in fact, Congress did pass legislation that improved that very process. Now, there had been other groups pushing for this before the Commission made its recommendation, and others did afterwards, but that's one example.

Another example going back a few years, maybe three or four years ago, is when the Commission recommended that Congress not pass a particular bill regarding Native Hawaiian Sovereignty. The Commission's recommendation was considered to be very influential in the decision of the last administration, the Bush Administration, to urge Congress not to pass it, and Congress did not pass it at that time, and I understand still has not. So, there have been a couple of examples where things have been done that the Commission has recommended. There are lots of examples where things haven't been done.

I know there have been recommendations to the Executive and Congress over the last year. I'm not aware of any that have actually been followed yet. I could be corrected, but I think it's definitely

worth having an agency that continues to put these recommendations forward.

COMMISSIONER HERIOT: Yes, we're getting to you before the end.

MS. PRESCOD: That's right. Thanks for taking my question. Our audience, we're very concerned about what looks to be a dysfunction in the Beltway Washington, D.C., as opposed to what's happening on Main Street.

And I hear you saying that part of the -- what the Civil Rights Commission should be doing is evaluating civil rights violations; and, yet, you're also having a discussion about whether you should continue, or what you should do, while the reports, certainly, that we're getting are showing a rise in Islamophobia, a rise in hate crimes happening, including not only against people of color, immigrants, but gay and lesbian people. The Department of Justice is suing now in Arizona because of this particular sheriff down there that seems to have taken the law into their own hands, so it seems to me, and our audience would want to hear, that there are plenty of civil rights violations going on right now; yet, the one that I have heard that the Commission is pursuing is the New Black Panther Party

of these three guys, or whatever they are in Pennsylvania, or wherever that incident happened.

So, I'm wondering, when you're talking about evaluating civil rights violations, and the data is showing an increase in civil rights violations, what does that mean in terms of your brief for the Civil Rights Commission, and what you do in the future? Are you going to continue to monitor, or what? I'm a little confused.

MR. MARCUS: Maybe I'll try to answer it, although the question is what are you going to do? And, of course, none of us are currently connected with the Commission, but I have no reluctance to saying what they should do.

Let me say two things about those comments. First, I think that the significant amounts of discrimination, maybe much less than 40 years ago, but to the extent that there is discrimination, whether the Justice Department and the other agencies are dealing with it or not needs to be assessed, the data needs to be gathered, it needs to be analyzed so that government knows how to pinpoint it best. And that's an area where the Commission can cooperate with the Executive agencies. I think it's very useful for the Commission to provide data that's useful to the

Executive. And you gave an example of one area where the Justice Department is already looking at something, maybe they could get support from the Commission.

But the other thing I would say is that, in some ways, the Commission is most valuable when it is not so much cooperating with the Executive, but providing a check on it. And that, in some ways, the Commission shows its value most when it's in opposition. Right?

The reason that the New Black Panthers case is worth discussing is not that it is the only, or even the most important, civil rights issue in this country, but, rather, because it is an issue which the Justice Department on its own was not looking into in a self-critical way, and may not have been able to. Right? So, I think it is very valuable that the Commission not only provide support for the President or Congress, but that it also critically assesses what's being done or not being done in cases like that one, so that there are checks and balances.

MS. ZIMMER: Any other comments?

COMMISSIONER HERIOT: Russell or Mindy, would you like to weigh in there?

MR. REDENBAUGH: No, I'm so disconnected

from the Commission the last five years, that -- I would point out, though, the Commission has no enforcement authority, and is not the first responder to outbreaks of new kinds of discrimination, like Islamophobia. Our enforcement is for evaluating the government's response, how it conducts enforcement, and investigation. So, that's all I would say.

MS. ZIMMER: Thank you.

COMMISSIONER HERIOT: Sir?

MR. KEITA: Yes. I just have a historical question, because I'm just not sure. When the Commission was first established, was it charged with looking at historical issues, for example, the burning of the black business districts in Oklahoma, Nebraska? Those are the ones that people know about, but those are, clearly, acts of hate, acts directed against a particular group who had managed to be actually successful.

And we talk about being entrepreneurially successful, and then when people get there, that gets taken away from them. But I wanted to know was that a part of its initial charge, because if it is, there are a whole lot of other places that are not as famous in parts of the deep south where there's been land expropriated from people through devious means, et

cetera, et cetera. So, was that a part of what the Commission was supposed to look into, clearly civil rights violations. I'm just curious, historically, old things, old things that have current effects with wealth, et cetera.

COMMISSIONER HERIOT: Panelists? Ken?

MR. MARCUS: Well, in 1957, Congress had sufficient will to create a Commission to study something, but not sufficient political will to actually pass something with enforcement teeth, so they didn't create what became Title 7, or Title 6, that had actual enforcement teeth. And they did not enlarge the powers of the Civil Rights Division of Justice, as they would do a few years later. So, the main charge of the Commission was to investigate civil rights violations, for instance, denial of voting rights.

MR. REDENBAUGH: Primarily by state governments.

MR. MARCUS: Primarily by state governments, right. And that was an important role for the State Advisory Committees in somewhat early periods. It wasn't so much, as I understand it, looking back historically, as it was asking what's going on now, and what needs to be done about it?

MR. KEITA: And sort of very legalistic denial of voting rights. I mean, very legalistic, with very specific things like that.

MR. MARCUS: Well, people may disagree about what's legalistic, but it was specific things like -- voting rights was a very important issue at that time, as was segregation.

MR. KEITA: Thank you.

COMMISSIONER HERIOT: Sir?

MR. SINGH: Good afternoon. Earlier, there was a question about expanding the scope of the Commission to include human rights issues. Professor Barry, you had mentioned that if Congress wants this information, they should be able to get it, if there's an audience for it. I wanted to follow up to get your input on whether the Commission itself should be the one to provide that information. In other words, is it proper for the Commission to do that, as opposed to, perhaps, another agency, perhaps something else that could be created? Thanks.

MS. BARRY: My, and this is just my opinion, my opinion would be that the Commission is probably best suited to take that on, rather than to create another agency that would be parallel, and could cause competition with the limited funds that

Congress has been appropriating for these purposes. So, that's -- I do think, of the resources to Congress and the White House, the Commission is probably the best well-suited.

COMMISSIONER HERIOT: Follow-up question on that. What are human rights?

MR. MARCUS: As I understand it, the proposal is for the Commission to look at the rights that are established in international conventions, and to determine whether the United States is in compliance with them. So, that would include, for instance, the rights established within the Convention on the Elimination of Race Discrimination, or CERD. That deals with race discrimination issues, and ethnic discrimination issues, so for the Civil Rights Commission to ask is the United States in compliance with an international convention dealing with race discrimination wouldn't be a huge stretch.

COMMISSIONER HERIOT: Is it a stretch of law, I guess is my -- if it has to do with race, isn't it already in the jurisdiction?

MR. MARCUS: If it has to do with race, I think it's something the Commission could probably do right now. Usually, the Commission doesn't involve itself in asking whether the United States is in

compliance with treaty obligations, but I think it probably could find a hook.

On the other hand, if the question is whether the United States is providing a level of health care, or providing a level of education, consistent with what might be either required or recommended by various international conventions, that might require a level of expertise that has nothing to do with discrimination. Well, maybe not nothing, but which is not principally about discrimination, and which might relate more to the expertise within, say, the Department of HUD, or Education.

Human Rights, as it's now defined within international conventions, is very broad, and includes a lot of topics that the Civil Rights Commission has never really developed skills in.

COMMISSIONER HERIOT: Sir?

MR. MORRIS: Hi. I just have a quick question mainly for -- well, I guess for all the panelists, but particularly Professor Marcus and Professor Barry. Professor Barry, you mentioned earlier that there were an assortment of court opinions that come down on a regular basis that affect the fair enforcement of civil rights. And, Professor Marcus, you also mentioned that there are a number of

things that the Commission does well when it's in opposition to, say, what the Executive Branch is doing, or Congress.

But there's also instances in which at least most of the Commission members have voiced opposition to certain laws that would have been either consistent with its original mandate, or the expansion of civil rights protections, not the least of which was that most members opposed the reauthorization of the 1965 Voting Rights Act, which was instrumental as an agency in promoting. There was also -- most of the members came out in opposition to the recent hate crimes law that was passed. And it was also in opposition to the Lilly Ledbetter Fair Pay Act, which basically would have shored up a really bad -- the effect of a really bad decision affecting the 1964 Civil Rights Act.

So, there's all these things that are -- were consistent with its original mandate that the Commission has expressed uncharacteristic opposition to, given that it's a civil rights agency, and I was just wondering how do you draw the line, or what kind of distinction do you make between opposition to actions by the Executive and Congressional Branch, and actually advocating for the vigorous enforcement of

civil rights, especially when its consistent with its original mandate?

MR. MARCUS: I guess my reaction is that the mission of the Civil Rights Commission cannot be that the Commissioners must always support anything that's called civil rights legislation. Otherwise, when they do support it, it has no meaning. And with each piece of legislation, there's going to be a divergence of opinion.

I do not think it's accurate to say that the Commission, or any member of the Commission, opposed the reauthorization of the Voting Rights Act. It is true that at least a couple of members of the Commission opposed reauthorization of certain then-expiring provisions of the reauthorization of the Voting Rights Act, like Section 5. That was an issue where there were people who disagreed. Some thought that it was still useful, others thought that other provisions of the Voting Rights Act were much more important. As I recall, the Commission, as a whole, did not weigh in on that, because it was not something where there would be a consensus either way, and not even clear which way a majority would go.

On the other two that you mentioned, they were after my tenure. It's my understanding that

there, again, it was some members of the Commission that opposed legislation, and not all of them. And in those cases, I understand that there were policy arguments on either side, and important arguments on both sides. And that if we ever said that we need a publicly funded agency whose mission is automatically to support any sort of public policy, then that support would be meaningless.

COMMISSIONER HERIOT: Well, ladies and gentlemen, if you would join me in thanking our panelists.

(Applause.)

CLOSING REMARKS

CHAIRMAN REYNOLDS: Okay, it's been a long day. I'd like to thank everyone for spending the day with us. We've had some tremendous exchanges, and I hope that some of the statements and comments, I hope you'll take them back, especially our State Advisory Committee chairs, and just give them some thought, and see if there's any material that you would find useful.

I would also like to -- he's not here now, but I'd like to thank our Keynote Speaker, William Raspberry. I thought that his remarks were quite good, as well as all of the panelists, especially the

panel that just spoke.

Internally, I would like to thank my fellow Commissioners. Their comments, their critiques, their suggestions were appreciated, and helped shape the conference. I'd like to thank the Staff Director for his support.

Amongst his staff members, specifically, I'd like to thank -- there were a number of people who made this possible, but I'd like to focus on a few -- Kim Tolhurst, who labored night and day to make this happen; Deborah Carr; Lillian Dunlap; Pam Dunston; there are others.

In addition, I'd like to thank the special assistants, John Martin, Alison Schmauch, and also especially Dominique Ludvigson. Dominique made this happen. She was tireless in her efforts to ensure that this conference came together, and that we had excellent panelists, so a special thanks goes out to Ms. Ludvigson.

So, folks, thank you very much. We're done.

(Applause.)

(Whereupon, the proceeding went off the record at 5:36 p.m.)

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