

**CITIZENS' COMMISSION ON CIVIL RIGHTS**

**RIGHTS AT RISK:  
EQUALITY IN AN AGE OF TERRORISM**

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DIANNE PICHE: Good morning. I'm Dianne Piche, executive director of the Citizens' Commission on Civil Rights. We're pleased to welcome all of you this morning to this briefing as we release the Citizens' Commission's latest report on the state of federal civil rights policy and enforcement.

The report we're issuing today is the seventh in a series of reports the commission has issued periodically since the Reagan administration in which we evaluate the performance of the incumbent administration's record on civil rights. This report is both a recap of Bill Clinton's last two years in office and an assessment of the performance of the Bush administration after the first of the year.

Today's report is a somber one. As our speakers will highlight, the commission has determined that many, many important rights and safeguards that have been extended under both federal and state law to minorities, the poor, immigrants, the disabled and others are now at risk.

Like our previous reports in this series, our newest volume, "Rights at Risk: Civil Rights in an Age of Terrorism," contains a series of working papers, 19 of them covering a wide range of civil rights law and policy and all the authors contributed these papers on a pro bono basis. They are all distinguished experts, all highly regarded in their fields of study and advocacy, and we have several of the authors here today, and I will recognize the authors at the end of the speeches.

I'd also like to recognize several other people who helped to make this report happen: Robin Reed (sp), our co-editor – Robin is outside now, Robin – okay; Pam Wicheri (ph), who is not with us, but was a staff attorney with the Citizens' Commission on Civil Rights; our colleagues at Communication Works; and Kathleen Downey, also a consultant to the commission.

Our first speaker this morning is Roger Wilkins. Roger is a professor of history and American culture at George Mason University, and a member of the Citizens' Commission on Civil Rights. He served in the government as assistant attorney general for legislative affairs and as director of the Community Relations Service at the U.S. Department of Labor.

Roger.

ROGER WILKINS: Thanks, Diane.

I don't want you to think that I'm speaking first because I am the oldest person here. That is not true. The oldest person here, my dear friend, Bill Taylor, permitted me to go first because I have to go teach a class. But I'm delighted to be here as a member of the Citizens' Commission, but neither Dianne nor Bill nor any other member of the commission needs to take responsibility for the things I'm saying – I will say in the next couple of minutes. They are my thoughts, drawn from the reading of the Commission's work and from my reading of the current administration.

The president came to office trumpeting a concept that he called "compassionate conservatism." In practice, after a year, we can see that what that amounts to is rhetorical and policy tokenism; that is, a veneer of decency, just like the token hirings of three decades ago where a company would hire a minority person, usually a woman, put her by the front door where she was very visible, and then continue, behind that façade, to do all of the things that it had done before, including discrimination against minority and female employees and would-be employees.

I just want to give you two examples and then I will have to sit down and shortly leave to teach. The first is his education – the president's education reform program. The president and his campaign appropriated the slogan of the Children's Defense Fund, which has for at 30 years been vigorously and sincerely involved in fighting for the rights of poor and minority children, and that slogan was, "Leave No Child Behind."

Now anybody who pays any serious attention to the education of poor children or to education of any children knows that parents are the primary educators and that, for the most part, parents who are stressed out by poverty, joblessness and dangerous neighborhoods find it very hard to play that role effectively. The budget that President Bush put forward last week, among other things, cripples job training and community development, two of the props that would support poor parents in their efforts to provide a stable educational environment for their children.

And thus, in a guns-and-butter budget in which all of the butter is slathered on the rich, the president's policies leave poor parents behind and therefore poor children. And it makes a mockery of his so-called concern for the education of poor children. I say that not only as a civil rights activist for many years and a member of this commission. I also make those observations about education as a member of the Board of Education of the District of Columbia.

Secondly, in his black history month radio address last Saturday, the president paid rhetorical respect to Rosa Parks and the late Reverend Dr. Martin Luther King, Jr. In his appointments, one of the key civil rights or anti-civil-rights activities for any president, this president has consistently put into office – or attempted to put into office people who are not only unsympathetic, but in many cases hostile to the kinds of civil rights advances and programs and laws that the activities of such people as Rosa Parks and Martin Luther King helped put into our national culture.

Two examples: the proposal to promote Judge Charles Pickering from a federal judgeship – district judgeship to a seat on the Fifth Circuit Court of Appeals. This is a man who, when Martin King was alive, stood for virtually everything that Martin King fought for. And secondly, the president is loading enforcement agencies with people who, under the rubric of discovering that we now have a color-blind society, are really blind to the reality that racism and racial isolation still stunt the life chances of millions and millions of minority citizens of this country.

So I would conclude by saying that after a year it is fairly clear to me that – quite clear to me – crystal clear to me that compassionate conservatism is a sham, and that most of the civil rights proposals of this administration and most of the proposed appointments deserve not only careful scrutiny, but in most cases, vigorous opposition.

Thank you.

MS. PICHE: Thank you, Roger.

I notice a number of people have come in. We do have some seats up here. If anyone would like to take a moment before I introduce our next speaker to help yourself to a seat, please feel free to do so.

(Pause.)

Our next speaker is my colleague, good friend and the acting chairman of the Citizens' Commission on Civil Rights, Bill Taylor. Bill is a civil rights lawyer, a writer, educator and an advocate. He is the former staff director of the United States Commission on Civil Rights, and he is currently the vice chair of the Leadership Conference on Civil Rights and the president of the Leadership Conference Education Fund.

Bill.

BILL TAYLOR: Thank you. I want to join Dianne in welcoming you all, and while thanking Roger, to say, you've got to get over this age thing, Roger. (Laughter.)

MR. WILKINS: (Off mike.)

MR. TAYLOR: I especially want to welcome our authors here, and Dianne will introduce them later, but these are folks who, without recompense, have set forth – have shared with us their expertise in a variety of areas, and I have to say that while I think I know something about civil rights, I learned an awful lot reading the essays in this book, and while the people have – clearly have points of view, what they are setting forth are facts that will enable the readers to make their own judgments.

We generally – as Dianne said, this is the seventh report of this kind on an incumbent administration that we are issuing, and we generally try to get them out on

Martin Luther King's birthday. This year we fell behind and decided to put it out on Lincoln's birthday, which we think is also an appropriate occasion and enables everybody to ask the question whether the Republican Party is still the party of Lincoln.

It's fair to say that – I think, that as we enter the second year of the Bush administration the nation is quite united in its determination to bolster its defenses and to combat the threat of terrorism.

The central finding of this report, however, is that there are other serious threats to our well-being as a people that are going largely unnoticed and that are growing because of neglect by the administration or, in some cases, simply because of wrong-headed policies – what we regard as wrong-headed policies.

The commission sees a number of threats, and I will just list some of them. First, and terribly important, is that the administration is making worse a drive by the federal judiciary to strip people of their rights and their remedies. Decisions – we have decisions by a majority of the Supreme Court and by several lower courts that threaten to reverse decades of progress. The decisions restrict the rights and remedies that are available to people of color, to women, to people with disabilities, to older people. The Bush administration has demonstrated an intent – and Roger cited a couple – an example – to make judicial appointments that will lock in these distressing trends for years to come.

As a candidate, Mr. Bush said he would seek to appoint more judges like Justices Scalia and Thomas, who are, as you know, the two most extreme members of the Court's current five-member majority, and that certainly has been the Bush record in nominating appeals judges in his first year.

Secondly, we have the decision of the Bush administration to appoint key executive branch people who either are inexperienced in civil rights or who are actually hostile to the policies that they would be entrusted with enforcing. I guess this shouldn't have been a surprise since the first key appointment was John Ashcroft to be the chief law enforcement officer in the land.

But one recent example I will cite has – the Supreme Court decided last year by a 5-4 vote that individuals can no longer come into federal court to redress certain kinds of discrimination under Title VI of the Civil Rights Act of 1964, which prohibits discrimination by people who receive federal funds – that was the Sandoval case. Now what that case means is that enforcement of these rights is left solely to the federal government, but the administration is now seeking to put into a key position in the department of education a person who has publicly opposed this kind of remedy.

At the same time, the administration has put on the shelf policies and guidance that the Clinton administration adopted to protect the rights of individuals – for example, fair testing procedures – and it is not seeking the resources needed for real civil rights enforcement at the EEOC and the Justice Department and other places.

Thirdly, we have decisions by the administration to curtail funding for programs that provide opportunity to economically disadvantaged people, and Roger touched on a number of those programs.

Beyond all of this, we – the administration has not faced up to how we strike a balance between our needs for security and our needs for liberty. We ought to be able to find ways to protect our security while minimizing the need for profiling on the basis of color. We ought to be able to conduct investigations without using dragnets to detain immigrants and abandoning our historic policy of welcoming newcomers to our shores, and I'm sure Marisa Demeo will touch on that as well.

The consequences of the policies that I have described are serious and, I think, can be devastating if they continue. If you look at the analyses that have been done of the Year 2000 Census, you will find that we are moving back toward a more segregated society that chokes off opportunity rather than providing it. School segregation is increasing in a number of our major cities. Segregated housing patterns have not abated, and when combined with growing urban sprawl, they are putting job opportunities beyond the reach of many people of color who are poor.

Along with increasing racial isolation, the shredding of the safety net and the curtailment of opportunity programs may cut off for many young people any real chance that they have to succeed. When child care and job training are not available in community development, when juvenile offenders are routinely treated as adults and locked away without a chance to develop their skills, when affirmative action programs at universities are curtailed by court decisions so that young – promising young people do not have a chance to show their worth, you are cultivating a sense of hopelessness and bitterness and a deprivation of opportunity.

The commission believes that the real strength in this country lies in its people, in their education, in their economic productivity, in their dedication to citizenship and being part of a larger whole. That's what we think is at stake when the administration pursues policies that widen the gap between the haves and the have-nots.

Now it's still early – being an optimist I say it's still early in the Bush administration. The president's plea for tolerance after September 11 has helped to deflect efforts to scapegoat Muslims and Arab-Americans. His pleas that children not be made victims of the soft bigotry of low expectations – to use his phrase – shows an understanding of the damage done by educational neglect and by prejudice. But frankly, none of this will amount to much unless the gap between the president's words and the deeds of his administration begins to close.

Some of the words that we are using here on this podium today may be strong, but the commission truly believes that unless leaders begin to address the issues of equal opportunity, we may awaken from our current preoccupation with national security to find ourselves a nation more divided, less equal, and therefore less secure than before.

Thank you.

MS. PICHE: Thank you, Bill.

Our last speaker is – thank you, Roger – our last speaker is Marisa Demeo. She is the regional counsel and director of the Washington office for the Mexican American Legal Defense and Educational Fund. She previously served in the civil rights division of the Department of Justice as a trial attorney.

Marisa.

MARISA DEMEO (Regional Counsel, Mexican American Legal Defense and Educational Fund): Good morning. First, I want to thank the Citizens' Commission on Civil Rights for the opportunity to contribute to the report and to be at the briefing today.

Roger Wilkins and Bill Taylor are both associated with the Citizens' Commission on Civil Rights and have presented what might be called the alternative view of the State of the Union. Well, if theirs is the alternative view, I think mine might be called the seldom-heard view of the State of the Union. For as much as the President and Congress talk about the importance of the Hispanic community, it is a rare event for any of them to actually do what Hispanics believe is needed to advance the needs of this ever growing and yet, disadvantaged and underserved population.

The President has expressed a familiarity with Hispanics and Hispanic immigrants and a desire to show his inclusiveness of Hispanics, as well as a desire to work with Mexico on shaping a new immigration framework, yet those persons he has placed in positions that could have a positive outcome and consequence for the Latino community, in agencies like the Department of Justice, have no knowledge or experience or desire to understand the issues facing the Latino community.

Historically, federal agencies have failed to enforce civil rights laws and develop comprehensive policies to address the civil rights concerns of Latinos. The Bush administration has not written a new chapter in this history of neglect in its first year. The administration has a historic opportunity to change this story. The administration has endorsed Executive Order 13166, which outlines how federal agencies and federal recipients need to serve limited English proficient populations to comply with Title VI of the Civil Rights Act of 1964. If the Bush administration aggressively enforces Title VI, particularly in light of the Supreme Court's stripping away a private right of action under the statute in the *Sandoval* case, that would be a huge statement about the importance of Latinos and immigrants.

In the area of voting, I couldn't agree more with the recommendations in the report to establish requirements for access to the ballot, improved registration systems and provisional ballots. These very recommendations are included in a bill expected to go to the Senate floor as early as tomorrow. To underscore, however, the complete lack of understanding, lack of commitment or outright hostility to Latino voters, the bill also

contains a photo ID requirement for voters who register by mail for the first time in a jurisdiction. The Department of Justice and a federal court have found this kind of provision has a discriminatory effect on Blacks and Latino voters and violates the Voting Rights Act. Yet four Democrats and three Republicans signed on as original sponsors of this bill. The administration has spoken on the need for election reform, committed itself to providing funding, yet is silent on this issue. Instead of taking so many polls of Hispanic voters, the President and the Democratic and Republican parties should allow Latino voters unobstructed access to the voting polls on Election Day by removing this discriminatory provision.

Finally, let me touch on the issue of immigrants, particularly in the post 9/11 world that we live in. Part of my article focuses on the growing trend to view immigrants as criminals rather than as citizens in training. This trend has only worsened since 9/11. While it is true that all the terrorists were non-citizens, it does not follow that all non-citizens are terrorists. However, this is exactly the conclusion that many policy-makers appear to be drawing from the characteristics of the terrorists. While I have examples of how this occurring in Congress and in the states, I want to focus on two examples from the administration.

First, traditionally, the Immigration and Naturalization Service, the INS, has focused its interior enforcement strategy in areas that are designed to protect the public safety by focusing on crime and work sites where crime or abuse is occurring. Since 9/11, however, the INS interior enforcement policy has changed significantly. Since 9/11, INS has conducted enforcement activities at airports in Seattle, San Diego, Salt Lake City and Portland. Hundreds of individuals have been fired from their jobs and dozens have had indictments brought against them. The intention to fight terrorism and the result of finding no ties to terrorism in these efforts, however, are constant themes in these enforcement efforts. The firing and indictments of hard working, family-oriented Latinos is not helping our war on terrorism, but it is causing grave economic and other hardships on our community.

Second. There are already many tensions between local law enforcement agencies and minority communities in different parts of the country. The fear and mistrust of local law enforcement in the Latino community is only heightened when local law enforcement engages in immigration enforcement. Also, racial profiling of Latinos increases. Current trends post-9/11 to involve local law enforcement in enforcing immigration laws will make matters worse. INS Commissioner James Ziglar recently announced that the INS would, for the first time, input data on over 300,000 individuals who have overstayed their visas or somehow violated their visas into an FBI database. Local law enforcement officials who stop motorists for a traffic violation could have access to the database and detain the individuals. Of great concern is the fact that 80,000 local law enforcement agencies will have access to a database to enforce civil immigration laws for which the officials are not trained and which will increase fear among Latinos and increase abuse. It is examples such as these which demonstrate that those under Bush are taking actions that harm the civil rights of Latinos rather than protect them.

MS. PICHE: Thank you, Marisa.

We'd like to open up for questions and answers now. But before we do, I'd like to recognize several of our D.C.-based authors who are able to be with us today. Chester Hartman, if you raise your hand, authored a piece on how homeless and transient children are left behind in terms of high classroom turnover and their needs. Carlos Angulo and Ron Weich co-authored an article on criminal justice issues. Marisa Demeo, of course, authored an article on political participation and Latino rights. And I think Leslie Aneckstein is about to join us, a colleague of Verna Williams. And finally we have Mark Lloyd, who authored a piece on communications policy and the digital divide. And did I leave anybody out? Okay, thank you.

And now we'll take questions and answers. And I'd just like to ask. We have people here from the policy community and the press, if we could begin with questions from the press and the media, and would you please identify your name and where you're from.

Q: As you see the next couple years coming up, are judicial nominations the number one concern to the civil rights community?

MR. TAYLOR: From where I stand, the answer to that question is yes, emphatically. And I might say, by the way, I meant to say earlier that Senator Leahy had wanted to be here this morning, but he's -- I learned last night he's a bit under the weather, and he clearly occupies a key post.

We have seen, as I alluded to in my opening remarks, a narrow majority of the Supreme Court and a number of lower courts not only placing crabbed interpretations on the civil rights laws and on the Constitution, but saying that the Congress and other popularly elected branches have no authority to protect the rights of people to be free from discrimination. We've seen an entire reinvention of the Eleventh Amendment and the placing of sovereign immunity over the guarantees of the Fourteenth Amendment. We've seen, as both Marisa and I have mentioned, the Sandoval decision, which strips people of a right to go into court when people who have federal money discriminate against you. And we are now seeing a series of appointments and most of the appointments are coming to the court of appeals positions rather than the district courts of people, in some cases people who have been instrumental in fostering and arguing for the policies and the results that I have just described.

We think that it is imperative that there be recognized the qualification of a demonstrated commitment to equal justice and the protection of equal justice before people are put on the bench. And we would hope that not only would the President consider that and naming people, but that the Senate would consider that in carrying out its co-equal function of the confirmation process. If that doesn't happen, if the pressures to confirm candidates result in a continuation of this process, you will within the next couple of years see a majority -- well, you're almost at the point where a majority of

circuits are controlled by Reagan appointees, and in a couple of years you will have all of the circuits being controlled by Reagan and Bush appointees. And as we all know there are -- the largest number of cases are decided there and never get to the Supreme Court.

So the stakes are very high. Hardly anybody around here is old enough to remember the Lockner era of the Supreme Court when the Supreme Court struck down health and safety protections that the states had passed, had enacted, when they struck down New Deal legislation. We are now witnessing something that is comparable, if not worse than the Lockner era, which is choking off opportunities for citizens and enabling people who discriminate to go free. So, yes, Tom, that is the number one issue I think.

Q: So what are the chances that there's going to be a Supreme Court appointment in the next -- ?

MR. TAYLOR: Well, it's hard to get into those sweepstakes. My friend Ralph Neas points out that this is the longest period in history that we have gone without a Supreme Court appointment. So the odds are we'll have one sometime soon, but who knows? I think that's, of course, what will draw the greatest attention. But a part of what I'm saying is that we need to be paying attention to all these court of appeals appointments as well.

Q: -- piece on affirmative action?

MR. TAYLOR: Yes.

Q: -- I'm just wondering if you could speak about two things. One, the attempt by Bush to appoint Jerry Reynolds, and also the whole push for race neutral policies. And I was wondering if race neutral means or implies that race-conscious efforts, whether they favor the majority or the minority, are unfair?

MR. TAYLOR: Well, let me -- I was indirect in referring to the Reynolds nomination before, but let me direct now. Gerald Reynolds is a lawyer who gained most of his civil rights experience working for Linda Chavez at the Center for Equal Opportunity, and his views, as they have been expressed over the years, have been opposed to many of the civil rights policies that he would be charged with enforcing. Indeed, he launched an all-out attack on Bill Lan Lee when Bill Lan Lee was being proposed as the Assistant Attorney General for Civil Rights on grounds that Bill Lan Lee in his long and distinguished career as civil rights lawyer had urged things like disparate impact enforcement of the employment laws and affirmative action in education. And if anybody is out of tune with the laws, it is Mr. Reynolds.

The leadership conference is opposing the confirmation of Gerald Reynolds. Speaking for myself, I oppose that nomination. Both Marisa and I talked about the *Sandoval* case, which says you can't go into court to enforce certain kinds of Title VI rights, and so that leaves it to the federal government and Mr. Reynolds is already on

record saying you can't -- that he's opposed to enforcing that kind of right, so the right would be extinguished if he gets into office.

Now, on the subject of affirmative action. I think there has not been demonstrated that there's any policy except one that takes race into account, that race-conscious policies that will be effective in giving promising people of color who apply to colleges and universities the opportunity to be admitted and to succeed. Now, there is some controversy about this and I recognize not everybody is on the same side. There are folks who say that if you take the top ten percent of everybody who graduates from high school, as they've done in Texas, you will be accomplishing the same ends, and Texas has gotten its numbers up and they do have that policy at the flagship university in Austin. But that's trading on a segregated system. That's saying we're going to get our students from -- because we rely on so many high schools being all African American or all Latino. In fact, it's a less meritocratic policy than is affirmative action because it would exclude lots of very capable students in very good schools and suburbs and in cities and in other places who are not in the top ten percent.

So I don't think that works well and it may be a recipe for students getting admitted, but then not staying. And it's already been demonstrated that to predicate policies just on economic disadvantage will be harmful as well and will depress enrollments and if you look at what happened in the California universities after the 209 decision and what happened immediately at the University of Texas and particularly at its law school after the *Hopwood* decision, you can see what kinds of devastating affects these policies have.

So the answer as far as I'm concerned is still to use affirmative action to use it sensibly, to use it prudently, to use and to continue to follow Justice Blackmun's precept which was that in order to get beyond race we must first take race into account the people who are urging that we now have arrived at a color-blind world or not living in the same world that you and I are living in.

Yeah?

Q: Could you comment on the employment issues a little bit more? I noticed that in the first chapter here you do say that the chair of the Equal Employment Opportunity Commission....

MR. TAYLOR: Well, we do think that. At the same time from our review of the budget, it does not appear that EEOC is getting much of an opportunity to do the job that it's supposed to do.

I wonder if Marisa has any comment she would like to add on the employment area.

MS. DEMEO: I mean this goes to my general point of, you know, enforcement of employment anti-discrimination laws with regard to Latinos and national origin groups in

general, whether you're looking at the EEOC or the Department of Justice's Civil Rights Division. There has been historically a lack of enforcement with regard to discrimination against Latinos. We did work extensively with the last administration, particularly with Chairwoman Ida Castro, to try to start to make some inroads into this. When you look at statistics of how many Hispanics actually file charges of discrimination, it is very much underreporting of the level of discrimination that is occurring against this community. I think that at least as far as the new chairwoman is concerned, it looks like she's going to continue many of the policies that Chairwoman Castro had adopted. For example, enforcing Title VII irregardless of the status, in terms of immigration status of the individuals. Title VII covers all employees. There may be limits on what types of remedies are available if someone turns out to be undocumented. But she seems to be -- Chairwoman Dominguez seems to be committed to that, and we're happy about that.

But in general, I don't know that the first year has really made a huge difference in terms of the small incremental changes we saw in the last few years with regard to Latino employment.

We're really finding that a lot of the issues affecting our community are really happening at the lower wage jobs, and Latinos often are being hired at high numbers. And a lot of the concerns that we have in employment actually fall under the Department of Labor, which has a terrible record of enforcing wage and hour laws with regard to our community. The amount of abuses occurring, say, for example, in the poultry industry are incredible. The Labor Department itself did a study that showed that all of the companies that they examined had violations, and yet they haven't taken action to really end those violations. So the only evidence at all that we've seen so far of any enforcement measure was a recent indictment brought against Tyson Foods. But, unfortunately, that indictment focused on anti-smuggling issues and it did not deal with the labor violations issues. And until the labor violations issues are dealt with, we're not really going to get at the bad acts of bad employers.

MR. TAYLOR: Let me just add two things, and then you want to say something?

Marisa's last comment is something I'd like to underline, because you will find it in the report that in addition to cutting programs, like job training and so on, the administration has been engaging in deregulation, which means cutting the budgets and the activity of the agencies that protect minimum wages that protect occupational safety and these have an enormously depressing effect on opportunity.

The other thing that her remarks put me in mind of is, of course, employment rights are enforced not only at the EEOC, but in the courts. And some of you may have been at the Pickering hearing the other day when the judge was asked about statements that he had made being extremely critical of people who filed cases alleging employment discrimination in his court and suggesting that, you know, the people who filed these suits often were just covering up their own inadequacies on the job by alleging discrimination. So he was asked about this, and he made what I regard as the astonishing statement that when a case goes to the EEOC and the EEOC does not bring a suit, then

that means that the EEOC does not think the case has any merit. So he has a mindset that when somebody comes to court, their case has no merit if they were going to the EEOC. And, you know, that can make all the difference in the world on these employment suits.

MS. PICHE: One of the things that I just wanted to point out, and this is something we're going to be looking be looking at and monitoring over the course of the next three years of the Bush administration, is that under the Reagan administration, that administration's policy was to narrow enforcement of employment laws and other civil rights laws by focusing on individual cases. And as you may know, both the Department of Justice and the EEOC have jurisdiction over federal enforcement of Title VII in terms of employment discrimination. And what we saw was sort of a redeployment of resources of those agencies toward individual cases which, while many of them are meritorious, don't get to remedying employment discrimination on the large scale that it exists and that we need to remedy.

So, for example, there was a movement away from what we call pattern and practice cases that both EEOC and the Justice Department had used to address employment discrimination that was systemic; for instance, against an industry, or against an entire state or local agency. So that's something that we're looking at very carefully.

Q: -- a number of civil rights, civil liberties leaders coming out expressing concerns about the current climate of rights, and so forth. We've even had members of Congress expressing these same concerns. I would assume there to be a lack of any political will on Capitol Hill to do anything partisan, particularly in light of the President's popularity in the polls. And I'm just wondering if you would comment on the political climate in light of our concerns on questions and what you are worried about?

MR. TAYLOR: Yeah. Could you say where you're from.

Q: (Inaudible.)

MR. TAYLOR: Well, there's no question in my mind that not only were people traumatized by September 11th, but political leaders were traumatized as well and somewhat intimidated, I think, by the popularity that poll showed the President has almost exclusively because of his handling of this issue. But I think now that in this new year, while the preoccupation with security and protecting ourselves as best we can still dominates the agenda and still dominates people's minds, that people on Capitol Hill and elsewhere are beginning to think about other issues that really relate to our national security and our domestic agenda and what it takes to have a society that makes use of the skills of all of its people.

So I'm not discouraged. I think it is slow in emerging. But I do see evidence of some leadership, of some willingness to take on the hard issues, which include the civil rights issues, which include the issues of economic disadvantage. And a lot's going to depend on whether we who are in advocacy community continue to speak out strongly on

these matters. And we intend -- speaking for the commission, we intend to do so. We're not going to be reading anybody's popularity polls and saying, well, we can't talk about the fact that segregation is increasing in this country. We can't talk about the enormous concentrations of poverty which deny people access to jobs and to schools. And I think we've shake off some of the trauma and begin to address some of these issues.

Do you want to....?

MS. DEMEO: In some ways, I do definitely agree with Bill in terms of some optimism that with a little more time, we're going to, I guess, regain some of the ground we've lost. But there's two areas that I feel have taken extremely hard hits as a result of 9/11 and have made politicians, including members of Congress, react in a way that doesn't match the facts of what's needed in order to fight terrorism. And really the two areas are related to our efforts to end the use of racial profiling by law enforcement, whether you're talking about federal or local law enforcement. And the second area is in the area of issues related to immigrants.

As my original comments pointed out, I think that politicians now feel it's right to conclude that if you are not a citizen, even if you're here legally, somehow you pose a threat, a security concern.

Just to provide one example of Congress's actions in this area, Congress just recently, just in the last session after 9/11, passed an airport security bill. And within that, they included a provision which requires that all baggage scanners be citizens, even though a large percentage of current baggage screeners in airports are legal, permanent residents, people who are here legally who can stay here for the rest of their lives, who have the authority to work in this country. Even though there has been no evidence to show these lawful, permanent residents cause a security risk, Congress concluded, erroneously, that every single one of these people is a security risk. And so they implemented a citizen-only requirement on baggage screeners.

So in some airports, you have 60, 70, 80 percent of the work force who will have to be removed from these jobs. And you're going to have to replace these people who are experienced working on this job. Some of them actually are veterans of our U.S. military, because the military allows non-citizens to serve. Even though you have people who are veterans of the military serving in these positions, they're going to be removed by people who are inexperienced. And actually, that causes a security risk. And it's those types of decisions that I'm concerned may not change in the near future.

MR. TAYLOR: Yeah.

Q: I was wondering if you could speak at all to some data of after September 11th [inaudible], non-traditional minority groups, Arab groups, South Asians, and the impact that September 11th had on their -- ?

MR. TAYLOR: Well, let me just say going back to the previous question, what Marisa said, you know, some of these problems predated September 11th. What was it, '96?, that Congress passed that act that was extraordinarily restrictive on immigrants and allowed them to be deported for offenses many years before, that occurred many years [before] that were not serious offenses. So, I mean, we've got a mindset. And I think we felt some progress was being made, and then September 11th came about.

The problem of interracial cooperation and understanding on college campuses has been with us for a long time. And as someone who goes back a long time in the civil rights movement, I must say I get distressed when I see that young people are still infected with attitudes of racial prejudice that one would think would be diminishing, if not disappearing right now. And I think that colleges face, and universities face a continuing challenge to create environments in which students can confront these issues frankly and can deal with them.

My problem from having observed colleges and universities is that they often take a hands-off -- the leaders often take a hands-off attitude and think that, okay, well, we'll promulgate a policy against the use of racially derogatory statements and leave it at that. And they don't create environments where students can get away from self-segregation and can air what their problems are. And I think those problems now are not just black-white problems; they're problems that affect Asian-Americans. They're problems that affect Latinos, and they're problems that affect Arab-Americans as well.

So I think there's a challenge not just for our government, but for institutional leaders in the places that are supposed to help us form values in society, which include predominately colleges and universities and public schools to being to deal with some of these issues.

Q: Would you like to make any comment on the situation over at the other commission on civil rights?

MR. TAYLOR: Not really. [Laughter.] Well, I feel very badly about the situation that the commission finds itself in, because there are people at the commission who have dedicated much of their lives to working for civil rights, Mary Berry, Chris Edley, Cruz Reynoso, who goes way back to the EECO, but even before that to being a lawyer representing poor people in California. And they have not been able to get back to the point where the commission is able to do the kinds of fact-finding that I think is very important to help resolve these issues.

So I still hope they will get to that, to that point. From everything I have seen, although I haven't made a study of the case, I think Judge Kessler's decision was a correct one and that the commission was right in thinking that the incumbent member had several years to run on her term. But we've gotten to the point -- when the Reagan administration took over the commission in the '80s and installed Linda Chavez, the fact-finding function of the commission disappeared and the job of the commission, which I think is a continuing job in assessing and monitoring the performance of the federal government,

also disappeared. And what you had were reports that, you know, we're kind of like living in an echo chamber, you know, and one just reprinted a decision of the Supreme Court in a case and then told you what all the commissioners thought about that decision. No fact-finding, no examination of the impact that -- this was the decision out of Tennessee on affirmative action versus seniority. No critical analysis. The commission's been trying to get back to the point of doing that kind of analysis. And I hope it will be able to do that.

So it's a distressing situation right now.

Yes.

Q: [Inaudible.] ...The commission has done a lot of work to monitor how well states use Title I....

MR. TAYLOR: Right. Right.

Q: ...Where does that stand now, actual enforcement of civil rights at the state level?

MR. TAYLOR: Well, I'll say something about that, but then Dianne may want to. When you say the commission, everybody may not know you're talking about our commission. We've been working a lot on issues of education reform. And the critical part of the law for English language learners says that students shall be accommodated -- shall be accommodated, shall be tested, and shall be tested in the language that best reflects what they know and can do. And that means, in some cases, testing them in their first language, Spanish, or whatever their first language has to be.

That has remained in the bill as passed, as enacted at the end of last year. It is a terribly important provision. It had been ignored by lots of states which were not accommodating students, English language learners, in some cases not even testing them. And so we're going to continue monitoring and working with the states and communities to see that that's enforced.

But Dianne, do you want to add something on that?

MS. PICHE: Yes. The commission, the Citizens' Commission, has issued several reports which are available to all of you on the subject of Title I enforcement. And all of them address the issue of inclusion of English language learners in Title I programs at the school level, as well as including them in accountability systems. We have a list of publications in your folder, "Title I and Its Dream in 1999," more recently a report called "Closing the Deal."

What we found is that in both the Clinton administration and in the Bush administration, there has been a reluctance to really enforce the concept that we leave no child behind when it comes to fair and appropriate testing and inclusion and

accountability systems. We had some progress in the last year of the Clinton administration. But to date, there've been really mixed signs from the Bush administration about whether it is really serious. And this is a very, very significant problem. And if you look at the articles in our report, both by Chester Hartman and Jorge Ruiz de Velasco and Michael Fix of the Urban Institute, we are at a point now where we've got a new education. We've got calls upon the states for improvements in their accountability systems. But there's going to be a real challenge both to the federal government and the state governments to make sure that when we're saying leaving no child behind, we really are. And there're very vulnerable populations of students out there either because, for a variety of reasons, they are doubly or triply disadvantaged. They are poor and their parents move a lot. They are poor and they have disabilities, and they're put into special education programs that are dead-ends for them. Or they may be new arrivals to this country. They may have limited English proficiency. And unless we find ways to make sure that schools are using their federal and other resources to meet the needs of these students and unless we make sure that schools are being held accountable for their progress, then those children certainly will continue to be left behind.

So I welcome you to look at those other reports of the commission, other forthcoming reports. But as Bill said, one major concern is that when we measure school progress that we measure appropriately and effectively the progress of all students. Because when we don't measure their progress, then those children simply don't count. In many cases, states have simply been excluding large numbers of students with limited English, large numbers of students with disabilities from their assessment systems. The state of Texas, for example, we found excluded half their students with disabilities from their assessment and, therefore, from their accountability program. A number of states have left a lot children out, including California left nearly one million children, including many children with limited English, out of its own accountability system. So when you look at the increased performance of schools, we're really not seeing increased performance for all children.

MR. TAYLOR: And may I add professional development of the teachers dealing with English language learners to the list of important things that really need to be done to give these kids a real chance. I notice that Michael Lieberman, who did the hate crime article, has made an appearance. So he's another one of our authors. And Ron Weich. I thought you introduced Ron. But anyway, Ron is here.

We'll take another question or two if there is one. Yes.

Q: [Inaudible.]

MR. TAYLOR: Well, I'm going to turn this question over to Marisa if she wants to address it. The only thing I would say is we keep saying in this country that we want people to understand, quote, "American values," and that once they do, they will not hate us. And maybe the worst thing you can do is to lock young people out of a country by not giving them visas so that they can learn what our values are and take that back to their own countries.

So I think it's -- I think it's most unfortunate, if, again, in the name of security we just wholesale block out people.

MS. DEMEO: The issue of students on visas falls into the general issue of people who are here on temporary visas, in general. And in that case, what has happened, originally there was a proposal made to first ban, you know, all student visas temporarily so that they could look at what the problems were in the system. And while they decided not to do that, there are proposals to keep much better tracking of temporary visas so that once people come in, there's going to be better tracking of when their visas expire and whether they're complying with those visas. For example, one of the terrorists had a student visa, but never actually showed up at the school for which he had the student visa. So what happen based on all these different proposals is that schools will become much more involved in law enforcement, which I think sends a bad trend in terms of how students feel welcome or not welcome in a learning environment. Also, somebody who may fall into a technical violation of a civil law, which is immigration law regarding their visa requirements. Often this happens because, for a variety of reasons, including that the INS does not process visa applications in a timely fashion. So if there is a student here on a visa [who] has applied to renew the visa, it's possible that that visa could expire while they're waiting. So now we're in a status where you have an Attorney General of the United States and attorneys general of individual states saying a technical violation of a civil law is reason to believe someone is a terrorist. And I think that's setting a very bad trend for how people who are here to learn and to learn about America and who want to be here to contribute to America, it's a bad trend that we're engaging into.

MR. TAYLOR: I want to thank you all for coming. We're around if you have questions or any other matters you'd like to discuss. And the authors are all listed in the report with their places of employment, so you can contact them directly with comments or questions about what they have written.

Thanks again to everybody.

(END OF EVENT.)