

HUMAN RIGHTS COMMISSION  
CITY OF PALM SPRINGS, CALIFORNIA

[www.palmspringsca.gov](http://www.palmspringsca.gov)

AGENDA

Wednesday  
May 5, 2021



5:30 p.m.  
Special Meeting

**Mission Statement**

*Palm Springs is an inclusive world-class city dedicated to providing excellent and responsive public services to enhance the quality of life for current and future generations.*

Pursuant to Executive Order N-29-20, this meeting will be conducted by teleconference and there will be no in-person public access to the meeting location.

- To view/listen/participate in the meeting live, please use the following link:  
<https://us02web.zoom.us/j/84836732045?pwd=cHcwTjhnNjFkcHJvamUyaXpyaUxsdz09>  
or call (669) 900-6833 **Zoom Meeting ID 848 3673 2045, Passcode: 565057**
- Written public comment may also be submitted to [cityclerk@palmspringsca.gov](mailto:cityclerk@palmspringsca.gov). Transmittal prior to the meeting is required. Any correspondence received during or after the meeting will be distributed to the Board/Commission as soon as practicable and retained for the official record.
- The meeting will be recorded and the audio file will be available from the Office of the City Clerk and will be posted on the City's YouTube channel, as soon as practicable.

1. **CALL TO ORDER:** Chair Ron deHarte
2. **ROLL CALL:** Board Members Terrie Andrade, Glenn Flood, Edwin Ramoran, Donna Shepherd, Vice Chair Denise Chappell, and Chair Ron deHarte

Student Representatives: Ella Cash and Lilly Hanner

3. **MISSION STATEMENT & GOALS:**

*"The Mission of the Palm Springs Human Rights Commission is to promote and protect the diversity of our community and to improve human relations through education and community awareness."*

Human Rights Commission Goals:

- *To develop community education programs;*
- *To investigate and mediate instances of discrimination of groups or individuals;*
- *To bring persons and groups together in common support of human rights issues;*
- *To acquire the fiscal and human resources necessary to support and accomplish the work of the Commission;*
- *To provide management and coordination for the Commission;*
- *To promote diversity through the appointment of candidates to all city boards and commissions to proportionately reflect the diversity of the population of the City of Palm Springs;*
- *The Commission and each Committee shall develop goals and objectives annually, for adoption by the commission;*
- *The Commission shall work closely with the Mayor, City Council, and City Cabinet and with all other City Commissions and Boards in joint endeavors that support the Commission's mission statement and City's goals and objectives.*

**4. QUORUM:**

- 5. PUBLIC COMMENTS:** This time has been set aside for members of the public to address the Human Rights Commission on agenda items; and items of general interest within the subject matter jurisdiction of the Commission. Three (3) minutes is allowed for each speaker. Although the Commission values your comments, pursuant to the Brown Act, it generally cannot take any action on items not listed on the posted agenda. Commissioners will not enter into discussion with speakers, but during Commission Comments, may refer the matter to staff for report and recommendation at a future Commission meeting.

**6. CHAIR COMMENTS:**

**7. ITEMS FOR DISCUSSION/ACTION:**

- A. Close the Bogert Monument Report review period for Commissioners, accept Commissioner's edits, receive the final Bogert Monument Report dated April 28, 2021, and forward to the Palm Springs City Council.
- B. Ratify “Resolution Entitled “RESOLUTION OF THE CITY OF PALM SPRINGS HUMAN RIGHTS COMMISSION RECOMMENDING THE REMOVAL OF THE FRANK BOGERT MONUMENT FROM THE FRONT OF PALM SPRINGS CITY HALL.”

- 8. ADJOURNMENT:** The Commission will adjourn to a special joint meeting with the Palm Springs City Council Thursday May 20, 2021

**PUBLIC NOTICES**

Pursuant to G.C. Section 54957.5(b)(2) the designated office for inspection of records in connection with the meeting is the Office of the City Clerk, City Hall, 3200 E. Tahquitz Canyon Way.

It is the intention of the City of Palm Springs to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, or in meetings on a regular basis, you will need special assistance beyond what is

normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the Office of the City Clerk, (760) 323-8204, at least 48 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible.

**AFFIDAVIT OF POSTING**

I, Jay Virata, Director of Community & Economic Development, of the City of Palm Springs, California, hereby certify this Agenda was posted at City Hall before 6:00 p.m., April 30, 2021, and posted on the City's website as required by established policies and procedures.

/S/ Jay Virata \_\_\_\_\_

Jay Virata

Community & Economic Development

*Disclaimer – Some of the terms used in this research describing the Black community are direct quotes from historic newspaper articles and are not intended to offend today's sentiments on accepted terms for racial identity.*

# **Palm Springs City Hall Monument Report**

**Human Rights Commission - Pending Acceptance**

City of Palm Springs

Final DRAFT

April 28, 2021

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**Frank Bogert:**

Palm Springs' Civic Leadership, Institutionalized Segregation, and  
Racial Bias 1958-1966

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## **Agua Caliente Band of Cahuilla Indians**

### **Tribal Chairman Richard Milanovich - Speaks Truth to Power**

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In under 200 words, Richard Milanovich, the 28-year chairman of the Agua Caliente Band of Cahuilla Indians outlines what occurred in the 1960s after the Equalization Act was passed in 1959 which ordered reservation land to be divided equally among individual tribal members. The Indian Leasing Act, signed into law on the same day, permitted tribal members to lease their land in ninety-nine year increments. Together the Equalization Act and the Indian Leasing Act greatly enhanced the commercial value of the Indian lands, particularly Section 14, making these properties attractive to real estate interests.<sup>1</sup> Milanovich shared his truth in an interview eight months prior to his death on March 11, 2012.

#### **In His Own Words - Tribal Chairman Richard Milanovich**

“Then came the ‘60s Judge (Hilton) McCabe, together with some individuals in Palm Springs, felt they hit a gold mine by coming up with the scheme to, how do I put it, separate the property from the members. So they formed the conservatorship program - they deemed all the tribal members incapable of managing their own affairs.

So they named individuals and entities to serve for their benefit (and manage) their estates.

They appointed individuals: (The late Palm Springs Mayor) Frank Bogert was a conservator. James Holloway was an attorney. Bank of America was my conservator. Maybe two or three didn't have conservators. Everyone else more or less did....

They would do work for the member, but when they submitted their invoice..... The member didn't (always) have the resources to pay.

So what did they do? They applied to the court, Judge McCabe's court, and said I did this work, and I'm not getting paid, so the judge ordered that a portion of the allotments be sold off to pay for the services that had been done.

We lost about 7,000 acres during that period (of) time from the original 32,000 that had been established in (the 1870s).”<sup>2</sup>

The 7,000 acres has never been returned to the Indian land owners.

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<sup>1</sup> Wiefels, H.Howard, Indian Land Zoning Controversy, 1955, as cited in University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, Ryan M. Kray.

<sup>2</sup> The Desert Sun, March 19, 2012, In His Own Words.

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## The City Beautiful

Palm Springs gained fame as an exclusive resort in the 1920s. Thereafter, the city elite became consumed with maintaining its reputation. Because public policies in Palm Springs increasingly reflected the interests of local business, real estate, and village elites, social engineering and control over land use became the driving forces behind the city's political economy. Collaborating with local businessmen and attorneys, Palm Springs civic leaders persecuted their lower-income constituents who resided on the land owned by Tribal Members. Attempting to dispossess the Indians of their tribal lands and erase any blighted neighborhoods that might degrade "the city beautiful," Palm Springs officials developed and implemented a plan that included having non-Indian conservators appointed by a local judge to manage the Indians land claiming they were unable to manage it for themselves. The successful implementation of this plan resulted in removal of the city's people of color from Section 14 and restructured the race and class configuration of the city.<sup>3</sup>

### "Beautiful for the white people"

In 1951, "When I got to California, I thought everything was beautiful," said Cora Crawford, 83, during a 2016 interview at her home in northern Palm Springs. "It was beautiful for... the white people."<sup>4</sup>

"Black and Latino Americans had to sit in the balcony at the Plaza Theater. People of color only lived in select neighborhoods — on Section 14 and on a tract owned by black businessman Lawrence Crossley," recalled Rev. Carl McPeters, who lived on Section 14 until he was about 7 years old. "In the postwar years, Palm Springs was implicitly segregated."

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<sup>3</sup> University of California Press, *Pacific Historical Review*, Vol. 73, No. 1, February 2004, *The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs*, p. 85, Ryan M. Kray.

<sup>4</sup> *Desert Sun*, September 28, 2016, *Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs*, Denise Goolsby and Rosalie Murphy. Cora Crawford arrived on Section 14 in 1951.

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## Introduction

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### 1958-1966 - The City's Darkest Time

*"It was like wow, this is the land of milk and honey.....but we don't get neither one."*

Rev. Carl McPeters<sup>5</sup>

The city of Palm Springs expelled residents from their homes over a sixteen-year period from 1950-1966.<sup>6</sup> With a majority of forced evictions occurring in the late 1950s and mid-1960s. This report is centered on governance, actions and ethical principles of civic leaders, and how those with disproportionate power and political influence, perpetuated a culture of privilege and disadvantages associated with "color" and the "poor." This was a time in the city's history when political and economic decisions intended for the greater good, were good for some and advanced racial inequity for hundreds of others.

During this time, civic and business leaders were focused on commercial development and maintaining the resort image of Palm Springs without ensuring the residents they displaced had access to affordable housing or were provided just compensation. With the passage of [Resolution No 3172](#), City officials were aware "the problem of housing local colored people has been under consideration by various local groups" as far back as 1951. Regrettably, no low-cost or affordable housing plan was realized to care for Black, Indigenous, persons of color and other working class families displaced under city directed forced evictions.

City decision makers focused their energy clearing Section 14 for development instead of addressing the core issue of housing for those displaced. It's difficult to comprehend the priorities of city leaders when you become aware that two days before the final 1965–1966 clearance of Section 14, the city reported a \$2 million surplus reserve fund. The city manager recommended a substantial portion of these funds be allocated for the park and recreation budget. In fact, during the 1964 –1965 fiscal year, the city financed several projects for its privileged residents, including a new library and a complete remodeling of city hall, as well as improvements to the Polo Grounds, Angel Stadium, and various city parks.<sup>7</sup>

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<sup>5</sup> Desert Sun, September 22, pp. 20-16, It was beautiful for the white people: 1960s still cast a shadow of distrust over Palm Springs, Denise Goolsby and Rosalie Murphy; California Voting Rights Act Community Working group Report to City Council, September 20, 2018.

<sup>6</sup> According to the city's records, from 1948 to 1960, only forty-four homes in Section 14 had been burned, although 1,500 residents had received notices.

<sup>7</sup> Desert Sun, June 30, 1965, City Seen in Sound Financial Shape, p. 122 as cited in Kray 2004.

*“This is not a human’s right situation. The tribe was benevolent to allow essentially squatters to live and work out of section 14,”* said Susan Smith during public comment Human Rights Commission, April 12, 2021

Contrary to some public comments, the United Nations and the international community has repeatedly stated that forced evictions are a gross violation of human rights, in particular the right to adequate housing.<sup>8</sup> The razing of Section 14 is indeed a human rights issue.

### **Funding for Families with Incomes too High for Public Housing**

In September 1961 local officials announced that the FHA had certified that Palm Springs would receive federal monies to rehouse displaced residents. To assure that residents would have access to housing, the FHA Section 221 plan guaranteed a 100 percent-financed forty-year loan if the owner covered the closing costs, approximately \$200.<sup>9</sup> Intended for families with incomes too high for public housing, this program also qualified the city for federal housing assistance that would supply relocation grants to individuals displaced by federal, state, or local governments. According to a city manager’s report, in 1961 “all people living in Sec. 14 were notified of their eligibility to apply for [these] relocation grants but there is no record of anyone receiving money.”<sup>10</sup> Certificates of eligibility for the Section 221 loan plan were distributed by the city’s building inspector in early 1962.<sup>11</sup>

Inexplicably, residents who were interviewed for Ryan Kray’s “Path to Paradise” report knew nothing about these certificates, nor did they apply for or receive relocation funds. Yet these same families had doubled and tripled up in homes on the reservation and in areas north of the city. Whatever the explanation, the majority of the reservation’s residents never had access to the FHA Section 221 program’s benefits; most had already been expelled from the city before the city issued the certificates in early 1962. Cora Crawford, Ruby Abner and others recalled in the interview that by not having access to this funding, many Section 14 residents secured their home loans through Dumes Construction.

### **Latinos Classified As White By Census Until 1980**

Threats made by city officials of mass eviction or the burning of homes prompted some residents to move off Section 14. By 1961, a planning and building department survey sponsored by the city revealed that only 321 white families, inclusive of Latinos, and 115 nonwhite families remained on Section 14 in 1961. The U.S. Bureau of the Census classified Latinos as “white” until 1980, so accurate statistics regarding this population don’t exist.<sup>12</sup> This

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<sup>8</sup> United Nations, Forced Evictions, Fact Sheet 25/Rev 1, 2014.

<sup>9</sup> Palm Springs City Council minutes, June 26, 1961, pp. 480– 481.

<sup>10</sup> Desert Sun, September 8, 1961, p. 6, Housing Program OK: Government Certifies Funding Plan, As cited in Kray, 2004, p. 113.

<sup>11</sup> Palm Springs City Council minutes, January 29, 1962, Res. No. 6746, p. 194.

<sup>12</sup> University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, p. 85, Ryan M. Kray.

survey helped fuel a false narrative that there were more white families than Black families evicted from Section 14.

### No Low-income Housing Made Available During Bogert’s Term

With no low-income housing options, the city’s working class, particularly people of color, remained living on Section 14 as long as they could. White families not impacted with restrictive housing policies and discriminatory practices had more living options available to them than the Black, Indigenous, people of color families. The population fell from 5,000 people in 1948 to 1,700 in 1961.<sup>13</sup>

According to former residents of Section 14, Latinos far outnumbered African Americans and European Americans on the reservation.<sup>14</sup>

Palm Springs Population			
Race	1940	1950	1960
White	3,187	6,796	12,548
Black	124	662	675
Asian			123
Other	123	202	122

Figure 1. Palm Springs Population, 1940–1960. Source: U.S. Bureau of the Census, General Population Characteristics, California, 1940 –1960.

No city plan for relocation, coupled with racial covenants preventing African Americans from buying land in Palm Springs, displaced residents were forced to disperse to the north part of town, Veteran’s Tract on the eastern edge of the city, Banning,<sup>15</sup> Beaumont, West Garnet, San Bernardino, Riverside and other cities. Many Mexican American residents generally moved east to the Date Palm area of Cathedral City.<sup>16</sup>

#### **Cora W. Crawford<sup>17</sup>**

*“It was very stressful . . . . There was nowhere to go, but we knew we needed to get another place—wherever that might be—as quickly as possible . . . . I didn’t want to come home, like a few others had, to find my house destroyed.”<sup>18</sup>*

<sup>13</sup> According to the state’s 1968 report on evictions.

<sup>14</sup> (Kray, p.109)

<sup>15</sup> According to a January 1970 article printed in the Riverside Press Enterprise, the Black population in Banning in 1960 was approximately 500. After the Section 14 evictions were completed in 1966, Banning’s Black population had nearly tripled to roughly 1300, representing approximately 13% of Banning’s total population at the time.

<sup>16</sup> Desert Sun, August 21, 2011, Mexican-American milestones in Palm Springs History.

<sup>17</sup> Cora Westmoreland Crawford was a community leader who lived in Palm Springs seventy one years. She passed away April 6, 2021, at age 87.

<sup>18</sup> (Kray, p. 109)

### **Emma Pllum**

*Emma Pllum was born in Clayton, Texas and came to Palm Springs in 1955, where she and her husband, J. B. Pllum, a construction worker, lived in Section 14. She remembers that most of the people who lived in Section 14 worked in the hotel business or in construction. After being notified by the City of Palm Springs that people were going to have to leave Section 14. Before they were forced to leave they moved to Banning in 1960-1961. She remembers the city of Palm Springs burning down houses and said it took about six years to “get everyone out of Section 14.”<sup>19</sup>*

### **Ivy Pllum Wilson**

*Ivy Pllum Wilson and her family lived in Section 14 in Palm Springs. She remembers city officials meeting with the residents of Section 14 and telling them of their plans to redevelop the area. Her family decided to move to Banning in the mid-1950s, before the forced evictions occurred.<sup>20</sup>*

### **Dianne Lee**

*Dianne Lee, a longtime resident and an African American, said she was a little girl when her family’s wood-frame house in Section 14 was destroyed. “We came home one day and it was being burned down,” she recalled. “We didn’t have no place to go.”<sup>21</sup>*

### **Alvin Taylor**

*Alvin Taylor remembers watching his house go up in flames during Palm Springs’ “city-engineered holocaust” of the 1960s. “They were telling people to move out and nobody was moving,” Taylor remembered. “So, the next thing I know, they’re burning people’s homes out. They would come home from work and their house was on fire.”<sup>22</sup>*

## **Palm Springs Escapes Scrutiny of Civil Rights Groups**

Although housing for the middle class materialized by the mid-to late 1950s, the city remained completely devoid of low-income housing, which became a chronic problem for the city’s working class, particularly people of color. Although many African American, Latino, and Asian newcomers found jobs as permanent or seasonal manual laborers during and after World War II, they had tremendous difficulty finding a place to live, due to the high cost of housing and restrictive housing policies.<sup>23</sup> Despite the fact that the Supreme Court banned racial covenants

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<sup>19</sup> Banning Library District, May 25, 2012, *The Black Pioneers of the San Geronio Pass, Part 1: A Look at the History of the Black Community in Banning from the 1940s to 1965*, p. 4.

<sup>20</sup> (Banning Library District, p. 3.)

<sup>21</sup> Los Angeles Times, January 18, 2001, *Reviving a Resort’s Racial Pain*, Terence Monmaney.

<sup>22</sup> Desert Sun, February 22, 2018, *Survivor of ‘city-engineered holocaust’ in Palm Springs finds redemption in Black History Month celebration*, Bruce Fessier.

<sup>23</sup> Author interview with Siva; Cora Crawford, interview with author, Palm Springs, Calif., September 28, 2002. “The Other Side of Palm Springs: Black Community Ekes Out Existence Amid Affluence,” Los Angeles Times, November 5, 1984, p. V-1, as cited by Kray, 2004.



in 1948, the isolated community of Palm Springs escaped the scrutiny of civil rights groups that might have challenged such discriminatory practices. Consequently, service workers were the fastest growing population of Palm Springs and during this period their only local option for housing was to rent a parcel of land on Section 14.<sup>24</sup>

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## Bogert's First Term as Mayor

A bona fide cowboy in an iconic Western setting. His big white hat, ambling gait and salty language belied a sophisticated civic booster who helped transform a sleepy desert village into a luxury destination.<sup>25</sup> Frank Bogert was Palm Springs' best ambassador years before he became mayor.<sup>26</sup> At the age of 48, Frank Bogert was elected to city council and then appointed mayor April 16, 1958.<sup>27</sup> His term ended January 20, 1966. He went on to become the city's first elected mayor, serving a second term from 1982 to 1988.<sup>28</sup>

This report reinforces the significance of Frank Bogert's contributions to the city of Palm Springs and in no way should be interpreted as erasing the history of his nearly 100 years of life.

As mayor during much of the 1960s, Frank Bogert presided over a period of rapid growth for the resort city.<sup>29</sup> His skill as a publicist and knack for promoting proved he was a true showman. Through most of his 99 years of life, Bogert masterfully positioned Palm Springs as a desert resort city known as a place of leisure, wealth, and privilege.<sup>30</sup>

In his book, "Palm Springs: First 100 Years, he wrote, "The first European American pioneers in Palm Springs blazed the trail for future civic and business leaders to establish the city as a "world class" resort, fostering a climate of exclusivity and entitlement."<sup>31</sup>

As a community leader and especially while he served his first term as mayor, Bogert led a push to revitalize downtown Palm Springs.<sup>32</sup>

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<sup>24</sup> "Who's Sorry Now? NAACP demands apology," Palm Springs Desert Post Weekly, December 21, 2000, p. 13, as cited by Kray, 2004.

<sup>25</sup> The Wall Street Journal, April 4, 2009, by Stephen Miller, Longtime Mayor Helped Make Palm Springs a Mecca.

<sup>26</sup> Wall Street Journal, April 4, 2009, Longtime Mayor Helped Make Palm Springs a Mecca, Stephen Miller.

<sup>27</sup> Riverside Independent Enterprise, April 16, 1958, Frank Bogert Palm Spring' New Mayor.

<sup>28</sup> The Desert Sun, March 22, 1990, Bogert statue to be unveiled on March 31.

<sup>29</sup> The Philadelphia Inquirer, March 30, 2009, Frank Bogert, Palm Springs mayor, 99.

<sup>30</sup> University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, p. 85, Ryan M. Kray.

<sup>31</sup> (Frank Bogert, 1987, as cited in Kray, 2004)

<sup>32</sup> The Desert Sun, Mar 24, 2009, He fits town, town fits him.

According to the Palm Springs Historical Society, Bogert was mayor during the “slum clearing” of section 14 at the end of a ten-year process to make way for new hotels and further tourism. This was an area where many low-income and people of color were living at the time.<sup>33</sup>

## **Aesthetics Over Social Welfare**

Public-minded civic leaders often set out to construct “the good city,” a city in which success is measured by the well-being of all its inhabitants. In Palm Springs, from 1958-1966, however, city officials deferred to the interests of a wealthy business elite. Rather than struggling with the conflicting ideals of “beauty and justice” as in other cities, Palm Springs officials privileged aesthetics over social welfare.<sup>34</sup> Palm Springs boosters imagined an ideal community devoid of social conflict and political dissension, a homogeneous constituency free of the burdens of the indigent, a city whitened and brightened to illuminate its most worthy citizens. As city leaders visioned city building as an exclusive project, race and class claimed center stage in city politics and planning.

Toward the end of 1965 and his tenure in 1966, the city demolished about 200 dwellings in a blighted part of town on land owned by members of the Agua Caliente Band of Cahuilla Indians. Bogert’s strong advocacy of the redevelopment effort, which forced the displacement of many working class, Black, Indigenous and people of color families, provoked an investigation by the state attorney general’s office. The probe resulted in a blistering report that said the city’s actions were a “classic study in civic disregard for the rights and feelings of minority citizens.”<sup>35</sup>

## **Bogert Defended the City and Denied Discrimination**

Bogert’s defence of city actions perpetrated inaccurate stereotypes and effectively allowed unfair treatment in the city to seem fair to many of his supporters. “They were poor Blacks,” Bogert said. “They began to come from Texas or wherever and settled in the (Section 14) Indian land, where they could live rent-free. Some of the hotels in the center of town, thought this was a bad image for the center of Palm Springs.”<sup>36</sup>

“When we’ve got a Tortilla Flat developing in our front yard, it looks like we should do something to develop it properly,” is how Bogert described three quarters of a square mile annexed by Palm Springs on April 23, 1958.<sup>37</sup>

Actions and comments made in years past carry the tone of prejudice and racial anxiety that must be understood today for what it is and not passed off as, ‘just one of the boys talking,’ or dismissed because it was, ‘an off the cuff remark,’ or ‘a product of his times’ as noted in a letter

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<sup>33</sup> News Channel 3, KESQ.com, [June 24, 2020, Caitlin Thropay](#).

<sup>34</sup> Howard Gillette, 1995 as cited in, Kray 2004.

<sup>35</sup> Los Angeles Times, March 26, 2009, Longtime Palm Springs mayor helped glamorize the desert town.

<sup>36</sup> Los Angeles Times, March 26, 2009, Longtime Palm Springs mayor helped glamorize the desert town.

<sup>37</sup> Riverside Daily Press, April 24, 1958, Council Votes Down Annexation Protests.

to city council.<sup>38</sup> “Mr. Bogert was a man of his times - gruff and outspoken with no interest in political correctness,”<sup>39</sup> recalled Ron Gregory in a letter to the Palm Springs City Council June 20, 2020.

A story in the November 19, 1968 edition of the Desert Sun, reported that when Indian agent Paul Hand asked how the city felt about the responsibility toward the people who would be

*Paul Hand's attempt to invoke a sense of moral responsibility from the city, fell upon deaf ears.*

displaced in a cleanup program, advising the mayor that public housing units were being developed on many Indian reservations across the country, denigrating the allottees and the renters, Mayor Bogert said, “They (the Tribal allottees) are letting (renting) the places for flat-out moochers.” Councilman Ed McCoubrey said, “These people (the renters) are not interested in improving themselves.” McCoubrey asked, “Aren’t these houses substandard and can’t they be condemned?”<sup>40</sup> Mayor Bogert remarked, “If you think of the value of the land and think of the kind of junk there, it’s just scandalous.”

The United Nations Human Rights Committee declared forced evictions constitute gross violations of human rights. Protection against forced eviction is not linked to property rights and applies to informal settlements as were the basis of the Section 14 community. Everyone has a right to be protected against forced eviction.

Many Section 14 residents continue to say they never received notice of eviction and information about their property being destroyed if they don’t vacate. Bogert defended the city’s actions as necessary and said eviction notices were properly served. “We gave every one of the people we kicked off the reservation a permit to get a house on the north end (outside city limits),” he said. Most people who complained, he said, “were trying to raise hell saying I was discriminating against them.”<sup>41</sup>

### **City of Palm Springs Resolution No. 3172 - Re Housing Problem for Local Colored People**

Passed June 6, 1951, the resolution acknowledges the city leaders were aware, “the problem of housing local colored people has been under consideration by various local groups” seven years prior to Bogert’s first mayoral term. Many colored people residing on Section 14 have received eviction notices requiring them to abandon their “places of abode” and no place to go. The resolution stated, “the Council, the City Manager and the City Attorney should consider the matter of relief for said colored people.”<sup>42</sup> Prior administrations recognized access to housing for those evicted was a concern. The plans developed during Frank Bogert’s term, for demolition and burning of homes, continued in Palm Springs during and less than two years past Bogert’s mayoral term.

<sup>38</sup> Joe G. Jones, June 30, 2020, letter to city council.

<sup>39</sup> Ron Gregory, June 30, 2020, letter to city council.

<sup>40</sup> Desert Sun, November 19, 1968, Indians, City Talk It Over-Cleanup Drive Demanded On Section 14 Here.

<sup>41</sup> The Salt Lake Tribune, January 28, 2001, Shabby Neighborhood Was Born After Downtown Roust.

<sup>42</sup> City of Palm Springs official records, Resolution No. 3172, p.2.

Resolution No 3307 passed December 19, 1951 deferred evictions and acknowledged city leaders identified “evictions from Section 14 would be tantamount to exclusion from the city as there is no low rent housing available,” and that the City Manager would endeavor to secure a six month deferment of all evictions.

### **<sup>43</sup>Bogert Not A Lone Actor: Elected, and City Officials Stood By His Side**

In the six years after Resolution No 3307 passed, Charles Farrell, Florian Boyd, and Gerald K. Sanborn would all serve as mayor before Frank Bogert. Each would oversee strategies to ensure successful evictions and redevelopment of the downtown area.<sup>44</sup> Across the country, many urban revitalization campaigns at mid-century systematically removed people of color from the city’s inner core, creating a “second ghetto” by relocating the inner core residents to a “containable” area of the city, few, if any, of these redevelopment campaigns were as cost effective and successful at expelling people of color as the Palm Springs project.<sup>45</sup>

Highly respected and valued for his leadership in Palm Springs,<sup>46</sup> Frank Bogert, was in a powerful position to right the wrongs that were in motion before he became mayor and to stop the de facto segregation, the burning, forced removals and the hurt inflicted on Palm Springs’ Black, Indigenous, people of color and other working class residents.<sup>47</sup> What did he do with this power? He remained unresponsive to the “whiteness” of the city’s political decisions and the negative biases expressed in formation of policy.

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## Protecting a Tourist-friendly Resort Image, Segregation or Both?

When Frank Bogert was mayor, it was widely reported that he said, “I was scared to death that someone from Life magazine was going to come out and see the poverty, the cardboard

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<sup>44</sup> (Harvey Molotch, *The City as a Growth Machine: onward a Political Economy of Place*, as cited by Kray 2004). *American Journal of Sociology*, 82 (1976), 309–332.

<sup>45</sup> (Silver and Moeser, *The Separate City*, chapters 4 and 5, as cited by Kray 2004). In Atlanta, Memphis, Richmond, and Kansas City, slum clearance and the creation of the second ghetto resulted in higher concentrations of African Americans restricted to a specific area, subsequently resulting in Black electoral and political ascendancy. In Palm Springs, slum clearance purged people of color from the city, solidifying white electoral and political power; Silver, *Twentieth-Century Richmond*, chapter 11; Kevin Fox Gotham, “Growth Machine Uplinks: Urban Renewal and the Rise of a Pro-Growth Coalition in a U.S. City,” *Critical Sociology*, 26 (2000), 287.

<sup>46</sup> City of Palm Springs, March 27, 2009, Mayor Pougnet Honors the late Frank Bogert at Memorial Service by promising to Name the Famous Mexican Fountain at Palm Springs International Airport After the Iconic Former Cowboy Mayor, [News Release].

<sup>47</sup> City of Palm Springs Human Rights Commission, March 8, 2021, City of Palm Springs Apology For its Role in the Destruction of Section 14.

houses, and do a story about the poor people and horrible conditions in Palm Springs just half a mile from the Desert Inn, our high-class property.”<sup>48</sup>

City elders hoping to lure tourists into new hotels and restaurants found that Section 14, locally known as “the reservation,” stood in the way.<sup>49</sup>

Attempting to capitalize on their only accessible resource at the time—land—the Agua Caliente Native American community provided low-cost housing for 62 percent of the city’s adult population and 57 percent of its children.<sup>50</sup> With no other affordable housing available in Palm Springs, most low-income wage-earners settled on the Indian owned land in Section 14. City officials became outraged that a slum was developing one-half mile from the city’s most lavish hotel.<sup>51</sup> Palm Springs leaders regarded Section 14 as the city’s most acute problem, not only because Indians controlled prime downtown land, but also because the Agua Calientes rented to the underprivileged.<sup>52</sup>

In fashioning our exclusive community in the 1950s, Palm Springs city officials implemented a locally funded urban renewal/“Negro removal” campaign that, by effectively banishing the vast majority of people of color from the city limits, surpassed federally funded clearance campaigns elsewhere.<sup>53</sup>

#### **Distrust Dates Back to Section 14**

*“My family moved here to Palm Springs and settled in section 14 Agua Caliente Indian reservation in 1951. I just want to speak on the topic of systemic . The Black community has a long history of distrust with the city of Palm Springs and it dates back to Section 14. Many other speakers before me have spoken on that as well. We know that the city was founded on discriminatory housing practices. There were deed restrictions to keep Afrian American and Latino families from living in certain parts of the city. I recently had the opportunity to read the attorney general report from 1968 which says that the city of Palm Springs not only disregarded the residents of Section 14 as property owners, taxpayers and voters, Palm Springs ignored the residents of Section 14 and did not view them as human beings. The report called it a city engineered holocaust.”<sup>54</sup>*

Deiter Crawford

#### **Urban Renewal and the Unconscious Manifestations of Racial Bias**

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<sup>48</sup> The Salt Lake Tribune, January 28, 2001, Shabby Neighborhood Was Born After Downtown Roust.

<sup>49</sup> Los Angeles Times, January 18, 2001, Reviving a Resort’s Racial Pain, Terence Monmaney.

<sup>50</sup> (Frank Aleshire report, 1950, as cited in Kray 2004)

<sup>51</sup> (Frank Bogert, 2002, as cited in Kray, 2004)

<sup>52</sup> (House Committee on Indian Affairs, 1938, as cited in Kray, 2004)

<sup>53</sup> University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, p. 87, Ryan M. Kray.

<sup>54</sup> Palm Springs City Council Meeting, Listening Session July 18, 2020, 11:00 A.M., Unofficial Transcript.

*In 2001, Tom Kieley, an ex-Palm Springs official and resident for 64 years, insisted that “the razing was not discriminatory because every non-Indian resident was displaced, Black, Latino and white. But, he added, “I suppose anybody who is a [pejorative use] colored person in this community has probably been hurt emotionally in the past.”<sup>55</sup>*

Palm Springs’ urban renewal effort targeted at Section 14 could be passed off as unconscious racial bias that pervaded society in the 1950s and 1960s, but no matter how one looks back at the actions of city leaders driving downtown development, the fact remains that people of color were banished from city limits and city leaders didn’t intervene.

“Historically, Palm Springs has always been a city where poverty and privilege are silent neighbors,” said Renee Brown, Palm Springs Historical Society curator and historian. In a story she wrote about bittersweet history of Section 14, she reminds us that “the California State Attorney General looked into the reports of human rights abuses surrounding the removal of residents from Section 14.” A probe into the “slum clearing” by the Department of the Interior during Frank Bogert’s last year in office in 1965-’66 laid the way for the conservator and guardian program to be abolished in 1968.<sup>56</sup>

### **Leadership’s Duty to Care**

Leadership had the moral responsibility to be responsive to the subtle and outright civil rights infringement of the residents living in Section 14. At a minimum, elected officials were bound to uphold the equal protection clause of the fourteenth amendment.<sup>57</sup> Any action by city officials to combat de jure segregation would have been an act of courage and demonstration of leadership on behalf of all residents.

To lay claim the clearing Section 14 was based on commercial development motivations and driven by economic considerations and not race would not hold up against Title VIII. The displaced residents were impacted by the city’s urban renewal plan and actions. As a discrete minority it is unlawful to discriminate against any person.<sup>58</sup>

“My granny came to the reservation in 1946. on that reservation, they were not allowed or afforded the same opportunities as other people. My granny would talk about how their houses were bulldozed, They had to grab what they could. I have a cousin to this day who was not able to retrieve all of her dolls and she still collects dolls to this day. I did not understand the importance of that doll collection to her until I actually spoke to her. So, when talking about this statue,

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<sup>55</sup> Los Angeles Times, January 18, 2001, Reviving a Resort’s Racial Pain, Terence Monmaney.

<sup>56</sup> Desert Sun, December 12, 2015, Section 14 held Bittersweet Palm Springs History, Renee Brown.

<sup>57</sup> Donald E. Lively, Equal Protection and Moral Circumstance: Accounting for Constitutional Basics, 59 Fordham L. Rev. 485 (1991), p. 490.

<sup>58</sup> Arnold R. Hirsch, The Causes of Residential Segregation : A Historical Perspective, Hearing of the United States Commission on Civil Rights, November 12-13, 1985. p. 93.

we have to remember, there are direct quotes from our former mayor and city council people. One came from the January 19, 1965 Desert Sun, where he talks about the area just being trash. I'm sorry I have a lot of emotion because this affects my family directly. And then it wasn't until the city attorney decided at the time, maybe we should do something before the NCAA gets involved.

Then, we had the 1968 Section 14 California Attorney General's report. The report talks about the living condition, how the eviction notices went down and that our former mayor, Frank Bogert, the only statue that is out there in front of city hall, that he signed, he agreed and he said, yes, clear the area. Because it was not to benefit the Black people that lived in that area. Did they care about how those families were forcibly displaced? No, they did not. Not at all. I have heard a lot about how crime doesn't have a color but it does. People have been affected and it is difficult. It is difficult for me, being a Black woman. I'm not going to say African American I'm going to say Black woman. because that is what you see, that is how I see and that's how I feel."<sup>59</sup>

Janel Hunt, Granddaughter of Claudy V. Crawford<sup>60</sup>

Ethics and morals relate to "right" and "wrong" conduct. While they are sometimes used interchangeably, they are different: ethics refer to rules provided by an external source, e.g., codes of conduct in workplaces or principles in religions. Morals refer to an individual's own principles regarding right and wrong.

In a 2001 article in the Los Angeles Times, Joseph Brown, a youth coach and counselor at the Palm Springs recreation department, "said the [Section 14] raising has had a lasting impact: African American kids find out about Section 14 and they think nobody cares."<sup>61</sup>

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## Bogert Resigns from Elected Office

"Bogert was the most important figure in the establishment of Palm Springs as a major tourist destination"<sup>62</sup>

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<sup>59</sup> Palm Springs City Council Meeting, Listening Session, July 18, 2020, 11:00 A.M., Janel Hunt's comments to city council. Unofficial Transcript.

<sup>60</sup> Claudy V. Crawford lived in Palm Springs from 1946 to her passing May 20, 2015.

<sup>61</sup> Los Angeles Times, January 18, 2001, Reviving a Resort's Racial Pain, Terence Monmaney.

<sup>62</sup> Desert Sun, July 13, 2020, Valley Voice: Mayor Bogert's caustic persona belied his truly inclusive nature, Norm King.



The chapter of civic service, from 1958 to 1966, may have ended for Frank Bogert but the razing and burning of homes in the downtown center and the removal of minority residents from the city will forever be the bedrock of structural racism impacting life today for Black, Indigenous, and people of color in Palm Springs.

Frank Bogert resigned as mayor of Palm Springs January 20, 1966, three months before his city council term ended.<sup>63</sup>

- 1966, January 20 - Bogert resigns as city of Palm Springs mayor.
- 1966, July 25 - Six months after leaving office, on July 25, 1966 the Los Angeles office of the California Attorney General opened an investigation of the Palm Springs' Section 14 Demolition.<sup>64</sup>
- 1967, May - Stewart L. Udall, U.S. Secretary of Interior, announced that an investigation of the matter would be made. He appointed a task force to operate locally with Mr. Robert Cox as Chairman to investigate the administration of guardianships and conservatorships established under state law for certain members of the Agua Caliente Band of Mission Indians, Palm Springs, California.
- 1968, March 27 - The Palm Springs Task Force report of investigation submitted to the Secretary of the Interior March 27, 1968.
- 1968, April 2 - Secretary of Interior informs the House Interior and Insular Affairs Committee, House of Representatives, Washington, D.C., the principal conclusion of the Palm Springs Task Force, "Is that the present guardian-conservatorship system has been intolerably costly to the Indians in both human and economic terms and that it must be replaced or radically revised." **Frank Bogert was found to have benefited financially in fee-splitting which is improper under California law. Bogert's share of fees rightfully belongs to the land owner's estate and deemed held in constructive trust.**<sup>65</sup> Secretary of Interior directs the Department of Justice to pursue the legal actions deemed necessary to obtain accountancy and recovery of funds rightfully belonging to Indian Estates.<sup>66</sup>
- 1968, May 13 - The United States Congressional Record documented reportes from reliable sources say the State Commission on Judicial Qualifications has also undertaken an investigation of the manner in which the guardianship program has operated in Palm Springs.<sup>67</sup>

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<sup>63</sup> Desert Sun, January 20, 1966, Mayor Bogert To Resign From City Council.

<sup>64</sup> Loren Miller, Jr., Palm Springs Section 14 Demolition (report by California Department of Justice, Office of the Attorney General), May 31, 1968.

<sup>65</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 69-70, Exhibit 19.e. Frank Bogert.

<sup>66</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, p. 17, letter from Office of the Secretary to Chairman, House Interior and Insular Affairs Committee.

<sup>67</sup> United States Congressional Record, May 1968, Proceedings and Debates of the 90th Congress, P. 13045.



- 1968, May 31 - Department of Justice Attorney General's report, "Palm Springs, Section 14 Demolition" charges homes belonging to minority residents of Section 14 "were destroyed by a city-engineered holocaust."<sup>68</sup>

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## **99-year Leases and Direct Control Over Policy Making Bogert Takes His Persuasive Showman Skills To Washington**

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Having a vested interest in the Equalization Act as the mayor, a conservator, manager and developer of resort properties, Mayor Frank Bogert and Ted McKinney, vice mayor and chairman of the mayor's committee on Section 14, and a member of the Tribal Planning Commission, from the 1960s to 1990s, went to Washington D.C. in 1963 to lobby for approval of 99-year leases.<sup>69</sup>

Ostensibly enacted to protect Indians from greedy developers, the Equalization Act included a provision that authorized court appointed guardians and conservators legally to represent and control Indian lands in business dealings. Drafted and pushed through Congress by Palm Springs power brokers Floyd Odium, Melvin Eaton, and Judge Hilton McCabe, this provision became an instrument by which local businessmen, realtors, and attorneys eventually dispossessed many Agua Calientes of their valuable land in Section 14 and much of their newfound wealth. This collusion would later be deemed against the law and the oppressive system of conservatorship ended in 1968 by the U.S. Department of Justice and the U.S. Secretary of Interior.

Soon after their conservators were assigned, band members complained to the Bureau of Indian Affairs that they were asked to sign documents they later learned were for transactions that they had not approved. After four years of the Agua Calientes' complaints, Secretary of the Interior Stewart Udall belatedly appointed a task force in May 1967, to review the situation. The investigators found that an average of 44 percent of the revenues earned from the Indian lands had been paid to the conservators in fees and other charges through fee splitting, fee duplication, and negligent or forged accounting practices. Many band members had been forced to sell their valuable downtown land in order to pay conservator, guardian, and attorney fees. In addition, investigators found that the Palm Springs Superior Court judge overseeing the conservator program, Hilton McCabe, had obtained executor status over many of the tribal members' estates.<sup>70</sup>

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<sup>68</sup> California Department of Justice, Office of the Attorney General, May 31, 1968, Palm Springs Section 14 Demolition, Loren Miller, Jr.

<sup>69</sup> The Desert Sun, October 14, 1991, Indians take command of destiny, Ron Prichard.

<sup>70</sup> (U.S. Department of the Interior, 1968, as cited in Kray 2004)

While Frank Bogert was mayor of Palm Springs, he improperly benefited by serving as a conservator for individual Tribal Member Pete Siva. He was named in the U.S. Department of Interior investigation as having overcharged and illegally charged the allottee for services. The investigation released on May 28, 1968, found that during his mayoral term, Frank Bogert was found guilty of fee-splitting between a broker and a conservator, splitting by or with fiduciaries. This as well as other similar instances is improper under California law.<sup>71</sup> Having a substantial financial interest as a conservator created a conflict of interest for Bogert. See [Pete Siva's Own Words](#).

### **United States Department of the Interior**

#### **“The System Has Been Intolerable Costly to the Indians in Human and Economic Terms”**

David S. Black, Acting Secretary of the Interior, May 29, 1968 reported to the House of Representatives Chairman of the Committee on Interior and Insular Affairs, on guardianships and conservatorships being administered by the Superior Court of Riverside County, California. The report's scathing findings called for the end of the conservatorship program.

“The department, through a special task force, has recently completed a review of the administration of these guardianships and conservatorships, and has concluded that the system has been intolerably costly 'to the Indians in both human and economic terms and should be replaced or radically revised.’”<sup>72</sup>

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## **An Eye Toward Development**

Prior to a 1963 lobby trip to Washington, on October 25, 1962, Frank Bogert incorporated the Palm Springs business Cal-A-Nev as a California corporation for resort development in Arizona, California, and Nevada.<sup>73</sup> Bogert was president, Paul King, of Encino and representing syndicated New York money, secretary and longtime friend of Frank Bogert and major land owner in Palm Springs, Mr. Edward Furer, was treasurer.<sup>74</sup>

While he was leading the Section 14 demolition, profiting as a conservator, and championing development in Palm Springs, There is an appearance of conflict of interest when as mayor, he crafted a multi-million dollar real estate transaction with another tribe.<sup>75</sup> On November 10, 1962,

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<sup>71</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 69-70, Exhibit 19.e. Frank Bogert.

<sup>72</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, p 12

<sup>73</sup> California Secretary of State registry of corporations. File date October 25, 1962.

<sup>74</sup> Desert Sun, December 19, 1964, Seven Years of Effort Precede Signing of Mojave Indian Lease.

<sup>75</sup> Desert Sun, October 14, 1991, Agua Calientes fight city and developers for control of land. Frank Bogert is quoted as saying, “I was one of the ones who went to Washington in 1963 to get 99-year leases approved.” One must note, 99-year leases were approved for Palm Springs in 1959. It would seem the

as president of Cal-A-Nev, he signed a \$21 million resort development, 75-year lease for 13,000 acres of Mojave Indian land on the Colorado River.<sup>76</sup> To provide perspective, the 2021 equivalent in purchasing power is \$184,185,993 and the \$50,000 down payment at signing is the equivalent of \$443,679.<sup>77</sup>

Frank Bogert is quoted as saying, “I was one of the ones who went to Washington in 1963 to get 99-year leases approved.”<sup>78</sup> One must note, 99-year leases were approved for Palm Springs four years prior in 1959. It would seem the lobbying trip in 1963 may have influenced the \$21 million Mojave Indian development lease. The lease was signed with a promise by Congressman Harry R. Sheppard that a 99-year leasing right bill would be passed for them by February 1963.

In 1959, a new federal law distributed the Indian-held land in Palm Springs to individual members of the Agua Caliente Tribe. It also provided for 99-year leases on Indian property, rather than the traditional short-term leases. When the new 99-year leases became available, the city of Palm Springs and various real estate developers became interested in the commercial development of Section 14.<sup>79</sup>

The Agua Calientes are perhaps the richest Indians in America owning 27,000 acres of land valued at \$50 million allotted to them by the federal government in 1959. Each of the 104 members of the band received land worth about \$335,000. This comprised most of the undeveloped property in and around the luxurious desert resort. Much of the land has been leased for large sums for resort development.<sup>80</sup>

The Palm Springs real estate and business elites controlled the city’s planning, development, and growth in order to advance their own financial interests,<sup>81</sup> support tourist growth, obstruct manufacturing growth, and increase property values by committing to controlled growth and restrictive zoning in order to maintain the city’s status as a first-rate resort.

Under Frank Bogert’s leadership, “In 1964, the city of Palm Springs approached the conservators (appointed by Judge Hilton McCabe) with a plan to raze Section 14. The city

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lobbying trip in 1963 was for the \$21 million Mojave Indian development lease. The lease was signed with a promise by Congressman Harry R. Sheppard that a 99-year leasing right bill would be passed for them by February 1963.

<sup>76</sup> The Needles Desert Star (Needles, California), Thu, November 15, 1962, Mohaves Sign Land Lease.

<sup>77</sup> U.S. CPI Inflation calculator, <https://www.in2013dollars.com/>.

<sup>78</sup> Desert Sun, October 14, 1991, Agua Calientes fight city and developers for control of land.

<sup>79</sup> California Department of Justice, Office of the Attorney General, May 31, 1968, Palm Springs Section 14 Demolition, Loren Miller, Jr.

<sup>80</sup> Los Angeles Times, April 7, 1968, Investigation - Lo, the Poor Indian.

<sup>81</sup> Palm Springs as a case study confirms Terry Nichols Clark and Edward G. Goetz’s findings that opposition to growth frequently arises in cities with few people of color and a high percentage of upper-income and well-educated professionals who are concerned with environmental degradation and decreased property values that often result from unchecked growth. Clark and Goetz, “The Antigrowth Machine, 105–145, as cited in Kray 2004.

proposed that the Indians -- through their conservators -- terminate the leases or rentals of the land. The city would then clear the land, using city funds."<sup>82</sup>

Using stereotypes and negative representations to denigrate people was not right in 1960 and it's not right today. "A complete and total cleanup of Section 14, described as 'just trash' was urged by both the City Council and the Indian Tribal Council."<sup>83</sup> Contrast the reference to trash with how author Greg Niemann, in his book "Palm Springs Legends, Creation of a Desert Oasis," describes the housing on Section 14 as, "tents and shacks made of available materials: cardboard, pieces of tin, irregular pieces of wood, and branches."

Words matter and talking about low-income neighborhoods, particularly those composed of people of color, as "trash" reinforces how people of color are often viewed and how they are dehumanized as expendable to the rentier class in order to secure growth.<sup>84</sup>

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## City's Scheme to Skirt Legal Responsibility and Lawsuits: Highly Effective

"The city -- to protect itself against any legal action -- asked the conservators to serve notice upon the tenants that tenancy would be terminated within the statutory period of thirty days."<sup>85</sup>

When city officials burned down the first homes in 1961 without first notifying the residents, city leaders had considered their legal liabilities.<sup>86</sup> By engineering the 1965–1966 clearance plan, whereby the conservators posted the lease terminations and forced evictions, city officials were able to skirt normal eviction procedures, sidestep any record-keeping responsibilities, clear the blight plaguing Palm Springs, maintain their innocence in the clearance actions, avoid compensating the displaced residents, and gain access to the coveted downtown land.<sup>87</sup>

The plan was confirmed by attorney James Hollowell, president of the Conservators and Guardians Association, who stated that he took on "the dirty work" during the clearance campaign because "the city was willing to clean up and burn the property, but it did not want to take the risk of lawsuits."<sup>88</sup>

### Planning Started in 1960

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<sup>82</sup> Desert Sun, November 23, 1968, The Section 14 Story – X Indian Land Cleared, Empty.

<sup>83</sup> The Desert Sun, November 18, 1968, The Section 14 Story - V, Discrimination Charges Mar Section 14 Clean-Up, by Al Tostado.

<sup>84</sup> John R. Logan and Harvey L. Molotch, *Urban Fortunes: The Political Economy of Place* (Berkeley, 1987), as cited in Kray 2004.

<sup>85</sup> Desert Sun, November 23, 1968, The Section 14 Story – X Indian Land Cleared, Empty.

<sup>86</sup> Palm Springs City Council minutes, June 12, 1961, pp. 472 – 473.

<sup>87</sup> University of California Press, *Pacific Historical Review*, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, Ryan M. Kray.

<sup>88</sup> Riverside Daily Enterprise, June 5, 1968, State report rips Section 14 slum clearing practices, sec. B-3.

The Bureau of Indian Affairs in Washington, D.C., and Leonard M. Hill, director of the Sacramento Bureau of Indian Affairs, and Paul Hand, of the Palm Springs' Indian Affairs office were all consulted through letters dated April 25, 1966 and May 11, 1966 seeking clarification of the city's pending application for a demolition grant under Section 116 of the Housing Act of 1949.

One letter read, "The city proposes to carry out a demolition program on the Agua Caliente Indian Reservation. Under the Demolition Grant Program, federal grants are made to cities and other municipalities to assist in financing the cost of demolishing structures which under state or local law have been determined to be structurally unsound or unfit for human habitation. The local public agency acquires no interest in the properties but relies on the police power for its authority."<sup>89</sup>

On May 11, 1966, Paul Hand wrote to Leonard Hill and said, "The efforts of the city of Palm Springs, the Probate Court, the Bureau, various conservators and guardians, the Tribal Council and Indian land owners to secure removal of sub-standard dwellings on various Indian lands, but particularly in downtown Section 14, have extended over the past six years." The city's Bureau of Fire Prevention marked May 12, 1966 as the date of receipt of a copy of this letter.

Hand added, "It is my recommendation that any effort initiated by the city to procure additional funds for furthering the city's cleanup program on Indian lands located within the city be fully supported by the Bureau of Indian Affairs."

"Some of the land has been cleaned up and put to better use; much still remains in unpicturesque condition. But one main example of Indian - city cooperation in an effort to make a better face for Section 14 is the new \$1 million Palm Springs Dunes Hotel, a three-story, 108 - room hotel built at 390 S. Indian Avenue.

On the spot where the new hotel will stand was once a broken down Section 14 shack. The striking contrast graphically illustrates Indian land rejuvenation and its potentialities for enhancement of Palm Springs' economic and social betterment."<sup>90</sup>

### **Some Accomplishments are Better Unrecognized**

Wikipedia lists razing Section 14 as one of Bogerts top accomplishments during his 1958 - 1966 term in office. The accomplishment citation reads, "city authorizes the demolition and razing of homes and structures on the Agua Caliente Reservation in Section 14 – February 19, 1962."<sup>91</sup>

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<sup>89</sup> The Desert Sun, November 21, 1968, The Section 14 Story - VIII, Indian Bureau's Local Agent.Recommends Cleanup Support, Al Tostado.

<sup>90</sup> Desert Sun, January 25, 1965, Before And After: Section 14 Story Dunes Hotel Example of Progress.

<sup>91</sup> Wikipedia, The Free Encyclopedia, List of mayors of Palm Springs, California, contributors.

## City Leaders Quick To Demolish Homes: 2,500 Evicted, No Low Cost Housing Plan. No Financial Relief

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*“In 1959, a landmark decision by the Secretary of the Interior equalized allotted Indian lands and the 99-year lease became legal. Land values in Section 14 soared, setting the stage for massive development within the city of Palm Springs.”<sup>92</sup>*

Renee Brown, Palm Springs Historical Society

While many urban historians and sociologists argue that the type of public housing chosen to replace city slums was often unsuitable to the lifestyles or preferences of the inhabitants and simply led to their “warehousing,” Palm Springs residents in Section 14 were offered no such luxury. No replacement housing was ever constructed. Rather, the residents were simply expelled through forced eviction and their homes destroyed.<sup>93</sup>

The United Nations defines forced eviction as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”<sup>94</sup>

After the Equalization Act, of September 21, 1959, and The Indian Leasing Act allowed 99-year leases, “city and tribal leaders then canceled the month-to-month leases of many of the residents, including hundreds of Blacks and Latinos, and condemned their homes. About 200 structures were demolished and burned.

With short leases, no one wanted to build, and I couldn’t even tell people how much the land was worth. It got to the point where Realtors would show everything but Indian land, said Bogert. “So frustrating was the problem that in 1964 and 1965, local officials with questionable authority lined up bulldozers, leveled several sections and burned the wreckage. The residents cried foul, and the state attorney general harshly criticized the city for moving its mostly minority workers, often without notice.”<sup>95</sup>

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<sup>92</sup> Desert Sun, December 12, 2015, Section 14 Held Bittersweet Palm Springs History, Renee Brown.

<sup>93</sup> On the social costs of public housing, see Arnold Hirsch, *Making the Second Ghetto: Race and Housing in Chicago, 1940 –1960* (London, 1983); Christopher Silver, *Twentieth-Century Richmond: Planning, Politics, and Race* (Knoxville, Tenn., 1984); Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of America* (New York, 1985); Christopher Silver and John B. Moeser, *The Separate City: Black Communities in the Urban South, 1940 –1968* (Lexington, Ky., 1995); and Howard Gillette, Jr., *Between Justice and Beauty: Race, Planning, and the Failure of Urban Policy in Washington, D.C.* (Baltimore, 1995).

<sup>94</sup>Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions.

<sup>95</sup> The Desert Sun, October 14, 1991, Agua Calientes fight city and developers for control of land.

“The Desert Sun, chided in the report for agreeing to keep the burnings out of the news, defended the city’ sanctions.”<sup>96</sup>

### **Editorials are Indeed Opinion**

*“The editorial board is an institutional voice, but it is not the voice of the institution as a whole. That’s a crucial distinction that often gets lost. The board doesn’t speak for the newsroom.”<sup>97</sup>*

The June 5, 1968 Desert Sun editorial reads, “Reading the report of Attorney General Investigator Loren Miller Jr. on the Palm Springs Section 14 demolition and cleanup is somewhat like reading Alice in Wonderland. Miller and his social team quite apparently fell down a hole, hit heads and began to see things which were not there. That’s the charitable interpretation of as biased and nonsensical a report as has come across our desk-ever.”

The editorial included details that reinforce the substandard living conditions that mostly Negro squatters were experiencing. There was confirmation that the city, the Bureau of Indian Affairs and Indian landowners would work together to clean up the area. They neglected to say that many living on Section 14 had leases and their rights to due process protections were violated. There was also no mention in the editorial that most of those landowners didn’t actually have control over their land. Their estates were overseen by guardians and conservators who were close to city leaders.<sup>98</sup> Living conditions were described in a Desert Sun 1956 editorial as, “The mess is indescribable... Slums? This is even worse.” Facing a human rights crisis, why didn’t the Desert Sun or city leaders move to upgrade the shacks to improve dangerous or unhealthy living conditions for tax paying residents?

In undeniable contrast with individuals who lived through the demolition and cleanup, the editorial confirms clearing of Section 14 occurred over an 18 month period. The board neglected to mention that people of color had few options available to them and the Black families had no low cost housing options. With covenants preventing them to purchase a house and neighborhoods not renting to Blacks, they were forced to scatter through the valley and outside city limits on the north end of town. The editorial reads, “Those evicted in the later stages obviously had more than adequate notice of intent. Those vacated initially were not only given adequate notice, but the few pleas of hardship were met with complete compliance with the tenants time requirements. These ranged from as little as 10 days to as long as 18 months. City Manager Frank Aleshire and council members alike say not one of the few requesting a moratorium was summarily evicted.” No mention in the editorial that most eviction notices explicitly state that the eviction will be carried out even if a complaint has been filed.

Evictions notices may have been delivered as noted in the editorial, however, the editorial board glossed over the unchallenged testimony documented by the Department of Justice. “Once a

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<sup>96</sup> The Desert Sun, October 14, 1991, Indians take command of destiny, Ron Prichard.

<sup>97</sup> NewYorktimes.com, Jan. 13, 2020, What Is an Editorial Board?, James Bennet.

<sup>98</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

conservator executed a destruction permit, the city dispatched a demolition crew to knock down the dwellings and stack the lumber and other debris. Then the City Fire Department burned the debris in a controlled fire. Testimony indicated that the city paid little attention to the 30-day requirements set forth in the eviction notices and operated its own demolition plan solely based on receipt of the destruction permits executed by the conservators.”<sup>99</sup>

These statements required people who were accused of squatting to formally wage complaints with the city. The burden of filing a complaint rested with the residents without clear communication from their landlord, those with no phones or transportation. The duty of protection rested with the city to ensure residents were housed regardless of any perceived values of the resident’s property or condition of housing.

The last point raised was that, “no city at the time provided housing for its minorities and few do now [1968]. It simply was not within the then scope of municipal responsibility.” Neglected in the editorial was any mention of Vyola Ortner, who was chairman of the Agua Caliente tribal council in the 1950s, and is on record saying, “the tribe offered land for affordable housing if the city would build it. And the city did try. Four months before evictions were scheduled to begin in 1961, the Desert Sun reported that Frank Bogert warned that the city would be widely criticized if people were “thrown out of their homes” without an affordable place to go.”<sup>100</sup>

There was knowledge of the affordable and low cost housing needed in the city and various land deals and development proposals were entertained from the late 1950s up to the time the first Section 14 homes were burned to the ground. Demand for affordable housing was so strong that 1,000 or more people, or about 10% of Palm Springs’ residents, lived in Section 14 by the early 1960s.<sup>101</sup>

One must not forget the U.S. Congress passed the Civil Rights Act of 1964, banning discrimination on the grounds of race, color, religion, national origin, or gender. The law applied to publicly owned facilities, business and other facilities open to the public, and any programs that received federal aid. The city pursued federal aid until they learned any aid would be tied to requirements that the city have low cost and affordable housing plans. Which Palm Springs did not. It would be two years after Bogert left office before the city built its first medium-income, Federally-funded residential project.

The United Nations details procedures to comply with international human rights norms when forced evictions occur. Most important is the right to adequate housing. Relocation sites should be fully functional before eviction takes place this includes water, sewage, electricity, access to health services, and schools. Fair and just compensation for all losses should include any losses of personal, real or other property or goods. Our city leaders did not take adequate

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<sup>99</sup> California Department of Justice, Office of the Attorney General, May 31, 1968, Palm Springs Section 14 Demolition, Loren Miller, Jr.

<sup>100</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

<sup>101</sup> Los Angeles Times, January 18, 2001, Reviving a Resort's Racial Pain, Terence Monmaney.



measures to address the needs of our most vulnerable people.<sup>102</sup> The Desert Sun editorial omitted the obligation one has to ensure our city leaders respect and protect the human rights of those directly and indirectly affected.

### **Time Reveals Truth - 52 years of opinion shift**

July 2, 2020

*“The dark, “Section 14 chapter” of the city’s history played out during Bogert’s initial period as mayor.”<sup>103</sup>*

The Desert Sun Editorial Board

June 5, 1968

*“From the Miller report you get the idea that the city acted in total and callous disregard of the plight of the underprivileged. Such words a “Classic study in civic disregard for the rights and feelings of minority citizens,” are high-faluting and bound to provoke a prejudiced reaction.”*

The Desert Sun Editorial Board

1956

Living conditions were described as, “The mess is indescribable... Slums? This is even worse.”

The Desert Sun Editorial Board

### **Palm Springs Historical Society Shares History**

In June 2020, Palm Springs Historical Society’s associate curator, Renee Brown told News Channel 3, “There were some people who went to school in the morning and when they came home their houses were gone.”<sup>104</sup>

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## **City Leaders Undeniable Role in Razing Section 14**

History teaches us that city leadership shaped public policy, perpetuated a culture and identity of a resort city that allowed privileges associated with “whiteness” and disadvantages associated

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<sup>102</sup> United Nations, Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997) on the right to adequate housing: forced evictions.

<sup>103</sup> Desert Sun, July 5, 2020, Editorial: Palm Springs must come together to decide the fate of the Frank Bogert statue, The Desert Sun Editorial Board.

<sup>104</sup> News Channel 3, KESQ.com, [June 24, 2020](#), Petition to remove Frank Bogert’s statue; Palm Springs Historical Society and Jack Jones, friend of Bogert respond, [Caitlin Thropay](#).

with “color” to shape public policies and the foundation of cultural racism in our social and civic culture.<sup>105</sup>

In a November 26, 1968 story in the Desert Sun, several city council actions are documented from March 1961 to October 1965 that confirm under the leadership of Mayor Bogert and with the support of city council members, the city manager, the fire department, and other city representatives had knowledge of and participated in actions significantly impacting the destruction of Section 14.

### **Leadership Action Timeline**

- June 6, 1951 - City officials were aware that Section 14 residents had been forced to move to Banning since the early 1950s as was recorded in the Palm Springs City Council minutes.
- April 30, 1962 - City officials reinvestigated urban renewal financing, having previously rejected grants for Section 14.
- March, 1961 - Resolution 6213 requested the Federal Housing Administration to issue certificates which would make the people of Section 14 eligible for relocation assistance under Section 221 of the Housing Code.
- April, 1961 - Resolution 6291 shows the city council directing city administrations to make back surveys of Section 14 to support the requests for assistance as required by the federal agency. Two weeks later, on April 17, the Building Department reported there were 271 occupied dwellings and 20 vacant houses in the southwest quarter of Section 14.
- June 12, 1961 - Resolution 6419 ordered the appointment of a seven-member Citizens' Committee for Section 14 to work on the housing problems. One of the members was Rev. Jeff Rollins. Later that month, Richard Mitchell, special assistant to the Regional Administrator of the Housing and Home Financing Administration of the federal government, appeared before the city council to explain what had to be done by the city in order to qualify the 221 housing assistance program.
- July 10, 1961 - Resolution 6454 saw the council approve a program for community improvement, which was one of the requirements of the HHFA.

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<sup>105</sup> The Aspen Institute ranks having an understanding of structural racism as the most important words to an overall understanding of the dismantling structural racism and promoting racial equity. A system in which public policies, institutional practices, cultural representations, and other norms work in various, often reinforcing ways to perpetuate racial group inequity.

- February 19, 1962 - Resolution 6781 had the council requesting the Bureau of Indian Affairs and the Conservators / Guardians to formulate a program to remove debris from Section 14.
- September 21, 1964 - Resolution 8168 was a council request to the Agua Caliente Indian Tribal Council, the Bureau of Indian Affairs, the Indian allottees, and the Conservators - Guardians to aid the city to clean up all manner of materials and old cars in Section 14.<sup>106</sup>
- February 8, 1965 - The city council requested the city manager to study all feasible means for cleaning up Section 14.
- October 4, 1965 - The city Council declared Section 14 a public nuisance and authorized the Fire Department to burn debris.

***“In some instances the city cleanup operations were lagging.”***

Mayor Frank Bogert

- October 18, 1965 - At the city council meeting, City Manager Frank Aleshire reported on the controlled burn to city councilmen at a discussion session toward the end of the regular meeting. Mayor Frank Bogert said he felt that in some instances the city cleanup operations were lagging. Both Councilmen George Beebe and Edgar McCoubrey concurred, asking for a speedup in cleaning operations. Particularly, they added, in the Indian-owned land of Section 14.<sup>107</sup>

The last four months of Bogert’s mayoral term saw demolitions and controlled burning of homes continue with the destruction of 310 homes.

- February 27, 1967 - the city approved Resolution 8872 to accept \$5,000 from the Bureau of Indian Affairs to further “clean up debris and structures on this property, including demolition of structures, controlled burning and removal and hauling of all debris after demolition and controlled burning.”<sup>108</sup>

The city manager reported in 1966 to the Bureau of Indian Affairs that the city had been able to demolish, burn and clean up approximately 200 dwellings and structures. This means city and tribal leaders canceled the leases of Section 14 tenants and condemned their homes. Having received proper notification of lease cancelation and eviction is widely disputed by those living in Section 14.

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<sup>106</sup> City of Palm Springs Official Record, September 21, 1964. Resolution No. 8168.

<sup>107</sup> The Desert Sun, October 19, 1965, Up in Smoke Go More Section 14 Buildings.

<sup>108</sup> City of Palm Springs Official Records, February, 27, 1967, Resolution No. 8872.

According to a later investigation by the state attorney general's office, city crews acted without required eviction notices, knocked down houses worth as much as \$8,000, and stole some personal belongings.<sup>109</sup>

On March 7, 1966, the Bureau of Fire Prevention filled a progress report with the city of Palm Springs on the Section 14 abatement program. It was reported from Oct 18, 1965, to Feb 24, 1966, the bureau conducted 410 inspections and reinspections of structures and the area; 152 notifications had been sent to either conservators, guardians, allottees, or occupants.

The report detailed demolitions of structures totaled 155, including 43 which had been abandoned, and 112 which had been vacated. In addition, there were 155 controlled burnings of structures, trash, litter, and rubbish.<sup>110</sup>

***“Most people who complained were trying to raise hell saying I was discriminating against them.”***

Mayor Frank Bogert

They spoke out in the 1960s and many Section 14 residents continue to say they never received notice of eviction or information about their property being destroyed if they don't vacate. Bogert defended the city's actions as necessary and said eviction notices were properly served. “We gave every one of the people we kicked off the reservation a permit to get a house on the north end (outside city limits),” he said. Most people who complained, he said, “were trying to raise hell saying I was discriminating against them.”<sup>111</sup>

*Cora W. Crawford rented a house on the reservation and the eviction notice was given to the owner. Cora only heard second handedly that her family would be thrown out of their home.*

The “permit” given to everyone kicked off the reservation mentioned by Bogert was to an windswept, undeveloped area outside of city limits at the time. The land had no paved roads, sewers, sidewalks or streetlights.<sup>112</sup> After community uproar, this area north of town (Section 34) was approved to be annexed by ballot measure in September 1966.

The annexation of the new tract came after the last slum clearance sweep of 1965-1966 and after the deputy attorney general began the investigation of Palm Springs city officials.<sup>113</sup> Annexation added 1,200 residents to the city and was officially welcomed to the Palm Springs

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<sup>109</sup> Los Angeles Times, January 18, 2001, Reviving a Resort's Racial Pain, Terence Monmaney.

<sup>110</sup> The Desert Sun, November 21, 1968, The Section 14 Story - VIII, Indian Bureau's Local Agent Recommends Cleanup Support, Al Tostado.

<sup>111</sup> The Salt Lake Tribune, Jan 28, 2001, Shabby Neighborhood Was Born After Downtown Roust.

<sup>112</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

<sup>113</sup> Desert Sun, September 21, 1966, Annexation Approved, p.1.

family in December 1966. City Manager Frank Aleshire touted the Highland Estates addition among nine major accomplishments for the city of Palm Springs during 1966.<sup>114</sup>

The city's north end Frank Bogert talked about in the 1960s was described by Los Angeles Times writer Terence Monmaney as he saw it in 2001 as the city's largest predominantly Black neighborhood with many boarded up or rundown houses stuck in sandy yards as though left by a tide that never returned. He documented that the neighborhood was born after city officials began forcing Blacks and others out of downtown in the early 1960s.<sup>115</sup>

By 1966, with only a few months remaining in Mayor Bogert's term, the "city beautiful" clearance campaign was a triumphant success. Local elites realized their dream by eliminating downtown residential decay, securing racial homogeneity, and purging the city of its undesirables, thus voiding the city's obligation to construct low-cost housing. Although the city's people of color protested their exclusion and disenfranchisement, their voices were silenced by the city's bulldozer that razed their homes and broadcast their expulsion from the city. After the state attorney general's report became public, the city used its high-powered public relations machine to launder and sanitize the history of these events.<sup>116</sup>

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## Low-Cost Housing Eludes Bogert

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The opportunities for affordable housing, obtaining financing, and securing land to develop were frequently celebrated in the early 1960s. However, through Frank Bogert's first two terms as mayor, the excitement inevitably would fade to disappointment time and time again. In 1969, two years after Bogert left office the city built its first medium-income, Federally-funded residential project, Seminole Gardens, on 10 acres in southeastern Palm Springs, at 2607 S. Linden Way.<sup>117</sup>

Demand for affordable housing was so strong that 1,000 or more people, or about 10% of Palm Springs' residents, lived in Section 14 by the early 1960s.<sup>118</sup>

Vyola Ortner, who was chairman of the Agua Caliente tribal council in the 1950s, wrote in her memoir that the tribe offered land for affordable housing if the city would build it. And the city did

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<sup>114</sup> Desert Sun, December 27, 1966, 66 Highlights Told for City.

<sup>115</sup> Los Angeles Times, January 18, 2001, Reviving a Resort's Racial Pain, Terence Monmaney.

<sup>116</sup> University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, pp. 85-126, Ryan M. Kray.

<sup>117</sup> City of Palm Springs, Cityside Historic Context Statement & Survey Findings, Charles Jordan's leadership was recognized as instrumental in making the project a reality.

<sup>118</sup> Los Angeles Times, January 18, 2001, Reviving a Resort's Racial Pain, Terence Monmaney.

try. Four months before evictions were scheduled to begin in 1961, Frank Bogert warned that the city would be widely criticized if people were "thrown out of their homes" without an affordable place to go.<sup>119</sup>

The city delayed evictions while officials applied for federal housing funds, but demolitions resumed in 1962.

### **Low-Cost Housing Timeline**

**1958** In 1958, Lawrence Crossley planned a 79 lot low-cost housing development and by 1961 approximately 30 homes had been built. The project faltered after Crossley's untimely death in 1962.<sup>120</sup>

**1961** On October 10, 1961, the city council rezoned five acres of Section 20 for 120 low cost housing units. Developer Robert Gould applied for a low interest loan for the project and subsequently announced the city had qualified for it.

In December 1961, seven and a half acres were rezoned in Section 34 on the north end of town for a development of from 200 to 250 units by W & N Development. However, developer William Newman died before he could get the proposed project under way.

**1963** A judge struck down a proposed affordable housing project in 1963.

**1964** U.S. Congress passed the Civil Rights Act of 1964, banning discrimination on the grounds of race, color, religion, national origin, or gender. The law applied to publicly owned facilities such as parks and municipal swimming pools, business and other facilities open to the public, and any programs that received federal aid. The movement brought an end to legalized segregation and ameliorate the massive inequalities faced by African Americans.<sup>121</sup>

**1965** In January 1965, 20 acres of Section 20 were rezoned for a 300- unit low-cost housing project proposed by developer Paul King.

**1967** In 1967, another city request for federal funds failed.

In November 1967, the city council disapproved a proposed federal rent supplement program for an eight-acre parcel in Section 34 on grounds that it didn't feel such a program was appropriate for Palm Springs.

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<sup>119</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

<sup>120</sup> City of Palm Springs, Communities of Color: Non-Native American Populations

<sup>121</sup> University of Miami, Coral Gables, April 2005, Race, Ethnicity, and Inequality in the Workplace, African Americans: From Segregation to Modern Institutional Discrimination and Modern Racism, George Wilson.

**1968** In July, 1968, the city issued a permit to Baron Construction Company for 60 units of low cost housing at Cherokee and East Palm Canyon and that effort is now going ahead.<sup>122</sup>

In 1968, a \$2.5 million housing development by W & N Development slated for families displaced from Section 14 received approval by the Federal Housing Administration. Subject to certain government specifications the development would soon be under construction within a few feet of Palm Springs.<sup>123</sup>

In 1968 construction began on the 60-unit Seminole Gardens affordable apartment complex.<sup>124</sup>

### **City Says, Low-cost Housing Requirement Outweighed the Benefits Provided By Federal Funding. The City Didn't Seek the Funding.**

By 1963 several city council members had become suspicious of the strings attached to federal funding. President John F. Kennedy had authorized an executive order forbidding discrimination in federally assisted housing developments constructed after 1962. California instituted the Rumford Act, which stipulated that renewal funds for municipalities were contingent upon anti-discrimination policies implemented in the renewal areas. Additionally, the FHA demanded that, in exchange for funds, municipalities must include a housing element as part of its redevelopment plan—even if these funds were used to restore a business district.

According to a Palm Springs planning expert who was privy to the city's agenda during this period, the low-cost housing requirement outweighed the benefits provided by federal funding. Despite the fact that the city would not be required to construct public housing, just affordable homes for lower-income individuals, city elites remained hostile to the idea.<sup>125</sup>

### **Ten Years After Forced Evictions and Six Years After Bogert's Term Ended, City Provides 275 Units to Care For Thousands Displaced.**

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<sup>122</sup> Desert Sun, November 27, 1968 Records Prove City Followed Legal Line, Al Tostado.

<sup>123</sup> Desert Sun, November 15, 1966, The Section 14 Story III, Elation Over Housing Okay Fades as Recession Comes.

<sup>124</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

<sup>125</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy; (Palm Springs city planner, interview with author, Palm Springs, October 10, 2002 as cited by Kray, 2004) Although city council members debated the pros and cons of federal subsidies, the city never applied for these funds; University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, pp. 116, Ryan M. Kray; City council minutes cryptically refer to the Rumford Act and Proposition 14 in regard to Section 15 at a council meeting in 1964 (Palm Springs City Council minutes, December 14, 1964, p. 389).

By 1972, the city had 275 units of low-income housing. It was a start, but for the thousands of people who were forced off Section 14 a decade earlier, it was too little, too late.<sup>126</sup>

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## Civic Leaders Under Investigation

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*The manner in which the demolition of Section 14 was accomplished, makes it a classic study in Civic Disregard For The Rights And Feelings of Minority Citizens.*  
**U.S. Department of Justice, Offices of California Attorney General**

*Fee Splitting by Frank Bogert Improper Under California Law.*  
**U.S. Secretary of The Interior**

Deputy Attorney General Loren Miller Jr. reported, "Complaints were received by this office, during this period, concerning city development plans for Section 14. These initially vague complaints concerned possible conflicts of interest and questionable actions of Indian conservators. They also charged overriding city interest in commercial development of the land, without regard to the interests of the current tenants."<sup>127</sup>

### **"Some Judges and Lawyers and Others in the Palm Springs Area Have Been Cheating the Indians."**

U.S. Secretary of the Interior Stewart L. Udall

That was the accusation leveled last week by Secretary of the Interior Stewart L. Udall in his final report on a year-long investigation made by the Interior Department of property owned by the Agua Caliente band of the Mission Indians.

Udall said part of the responsibility for the crookedness rested with his own department.<sup>128</sup>

Judges and lawyers (in Palm Springs) were accused of improper fee-splitting, conflict of interest, and general mismanagement of Indian estates.

### **84 Estates Investigated**

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<sup>126</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

<sup>127</sup> The Desert Sun, November 13, 1968, The Section 14 Story - X, Indian Land Cleared, Empty, Al Tostado.

<sup>128</sup> University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, Ryan M. Kray.



Court-appointed guardians and conservators, or their attorney levied excessive fees against many Indian owners of 84 estates studied by the Interior Department investigators.

The report said Municipal Judge Eugene E. Therieau and attorney James Hollowell collected a total of \$485,000 in fees over a seven-year period. Other persons including Mayor Frank Bogert were also criticized.

Of \$10.87 million in receipts to the 84 estates from 1956 to 1967, the report said 37% to 44% was paid to guardians, conservators, or their attorneys under supervision of the Indo Branch of Riverside County Superior Court.

### **Frank Bogert Found Guilty of Fee-splitting: “Actions Improper.”**

Named by the report in connection with fee-splitting were Frank Bogert, the former Palm Springs mayor, and Paul King, a real estate broker. Named in connection with allegedly collecting fees from both the lessees of property while representing, at the same time, Indian owners of land, were Hollowell, Raymond C. Simpson, John P. Carroll, Saul Ruyskin, Thurmanb Arnold Jr., and the law firm of Slaughter, Schlesinger, and Schlecht (when Los Angeles Times reported the details the name was Schlesinger, Schlecht, and McCullough).<sup>129</sup>

A \$56,182 real estate commission awarded by the Superior Court at Indio to a broker in an Indian land lease deal, was later divided with the Indian’s conservator, former Palm Springs Mayor Frank Bogert. It was one of many reported cases of “fee-splitting.”<sup>130</sup>

### **Pete Siva’s Own Words**

Frank Bogert, realtor and former mayor of Palm Springs, served as conservator for the Estate of Edmund Peter Siva from June 8, 1960, until July 15, 1963, when the conservatorship was terminated.<sup>131</sup>

Tracy Conrad, president of the Palm Springs Historical Society, reported in the Daily Sun, on July 19, 2020, that from the beginning, Pete Siva did not want to be assigned a conservator and he protested.<sup>132</sup>

***Reporter George Ringwald won a Pulitzer for his Section 14 investigative series of the mishandling of property and Indian estates.***

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<sup>129</sup> Los Angeles Times, April 7, 1968, Investigation - Lo, the Poor Indian.

<sup>130</sup> Independent Press-Telegram (Long Beach, CA) March 21, 1971, The Forgotten Owners of Palm Springs.

<sup>131</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 69-70, Exhibit 19.e. Frank Bogert.

<sup>132</sup> Desert Sun, July 19, 2020, Palm Springs history: A plan for affordable housing and a fight against federal conservatorships, Tracy Conrad

In an interview with Press-Enterprise reporter George Ringwald, Siva was open “about his feelings of the conservatorship program saying he felt his conservator was “ripping him off” by fee-splitting and other means. Siva’s income was routinely parceled out to conservators and lawyers in the form of excessive fees; in 1963, for example, his conservator received a fee of \$9,000 - the same year in which Siva’s gross income amounted to \$9,189.73. Siva was later successful in his bid for termination of his own conservatorship, only to be confronted with an attorney’s petition for its reinstatement.”<sup>133</sup> Of the \$42,763.95 he had in his estate in 1961, \$20,200 went to his conservator, even though no lease or sale of land were negotiated during that period.<sup>134</sup> Siva served as a member of the Tribal Council and as Tribal Chairman in the 1960s.

A 2020 Desert Sun article, defined the reality of Siva’s 50 year old statements about conservatorship in a softer and oppressive tone saying, “Still most conservators fought the idea of emancipating their charges. There were a few supportive of independence, like Frank Bogert, who released Pete Siva when he turned 21, irritating those conservators who wanted to maintain control. (Bogert and Siva would remain lifelong friends.)”<sup>135</sup>

### **The U.S. Department of the Interior Finds Actions Improper Under California Law**

For his services as conservator based largely on negotiating a lease with the Carlotta Estate, the court awarded him fees of approximately \$13,000, and a further fee to Paul King, a real estate broker, in the amount of \$6,182, According to Mr. Bogert, Mr. King split his fee with him (present day value of \$13,000 in 1963 is nearly \$114,000 today).

Secretary of the Interior’ investigation reported in 1968, “ We are of the opinion that this fee-splitting between a broker and a conservator, as well as other similar instances of fee-splitting by or with fiduciaries, is improper under California law. We suggest that Mr. Bogert's share of these fees rightfully belongs to the Siva estate and may be deemed held in constructive trust therefore.”<sup>136</sup>

### **U.S. Department of Justice, California Attorney General’s Findings**

“There is no evidence that any crimes were committed in the removal of the residents from Section 14 and the destruction of their homes. Yet the incident displayed a unique insensitivity

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<sup>133</sup> The Spirit Newsletter Of Agua Caliente Cultural Museum, Vol. XV No. 4 June/July/August 2011, Feature Article, George Ringwald and the Conservatorship Program.

<sup>134</sup> Independent Press-Telegram, March 21, 1971, “The forgotten owners of Palm Springs, p.124, Ehud Yonay.

<sup>135</sup> The Desert Sun, July 19, 2020, Palm Springs history column: Lawrence Crossley and the fight against conservatorships for Indians; T Conrad.

<sup>136</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 69-70, Exhibit 19.e. Frank Bogert.

on the part of the city of Palm Springs to the problem of adequate minority housing, in particular, and to minority-community relations, in general.”

The state attorney general’s office criticized city crews who acted without observing proper eviction procedures. The report called it “a classic study in civic disregard for the rights and feelings of minority citizens.”<sup>137</sup>

Rene Brown, from the Palm Springs Historical Society, believes many people prospered from the new development made possible by the clearing of section 14.<sup>138</sup> “It was a horrible way to do it, but it was not one man who was responsible for it,” Brown said.

“Homes were destroyed with no real concern on the part of the city that the families were properly notified of the impending destruction.”

“Housing discrimination and other race-connected problems which are prevalent throughout California seem exacerbated in the somewhat isolated, resort atmosphere of Palm Springs. At the same time, there seems to be a civic attitude that such racial problems are of less concern in this exotic locale.”

“There is evidence of unusual cooperation between developers, the Indian conservators, and the city of Palm Springs, in the demolition of Section 14. The Section 14 situation reinforces the question of Indian conservator conduct which was initially raised by the Department of Interior.”<sup>139</sup>

“Perhaps the most conclusive evidence of the city’s altitude is the fact that the city of Palm Springs kept no official records of the persons displaced and the residences destroyed in Section 14, and could offer no evidence of any attempt at determining that each homeowner and resident had been properly served with eviction notices.”

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## **Generations of Pain**

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No official city eviction records were maintained in the 1960s and fifty years later some in the community deny the tremendous harm caused by the demolition of this neighborhood,

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<sup>137</sup> California Department of Justice, Office of the Attorney General, May 31, 1968, Palm Springs Section 14 Demolition, Loren Miller, Jr.

<sup>138</sup> News Channel 3, KESQ.com, June 24, 2020, Petition to remove Frank Bogert’s statue. Palm Springs Historical Society and Jack Jones, friend of Bogert respond, Caitlin Thropay.

<sup>139</sup> California Department of Justice, Office of the Attorney General, May 31, 1968, Palm Springs Section 14 Demolition, Loren Miller, Jr.

and generations of trauma inflicted on a populace. Even with the reality of firsthand accounts of those who lived through the displacement, current day cultural representations reinforce and perpetuate racial group inequity.

*“We all know that several hundred whites<sup>140</sup> leased on Section 14 with substantially fewer squatters of color. This is not a human's right situation. The tribe was benevolent to allow essentially squatters to live and work out of Section 14.”<sup>141</sup>*

Susan Smith

Public Comment April 12, 2021 at the Human Rights Commission

The community that was wiped off the map remembers. The families remember. Those whose homes were demolished or burned remember. Their children and their children and their children are still experiencing the fallout. To this day, the community is still impacted by a legacy of racial bias, separation and lack of resources.

**Mr. James Goree** said that his house valued at \$3,400 and occupied by his sister-was destroyed without notice.

**Mr. Moses Clinton** said that his house occupied by his son Harl was destroyed without his knowledge while his son was at work. Harl Clinton's personal belongings, along with a stove, refrigerator, furniture and an air conditioner, were either destroyed or taken from the house.

**Mrs. Cora W. Crawford**, “They came, knocked on our door, I was scared to death,” Crawford said. “You're going to have to leave, we're going to burn the house' — burn it — burn the houses down. I couldn't sleep at night.”<sup>142</sup>

**Mr. Joe Leonard**, of Leonard Construction Co., indicates that a dwelling which he owned on the reservation land was demolished without notice and that his property inside the dwelling was destroyed and burned.

**Mr. R. L. Lucas** reported the City destroyed five dwellings he owned valued at \$5,100. Mr. Lucas also states that he lost six water tanks, four stoves, four refrigerators, six air conditioners. 15 beds and 15 mattresses. He received a notice to vacate several dwellings he owned. He did not believe the notices.

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<sup>140</sup> University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, p. 85, Ryan M. Kray. This narrative based on willful ignorance is used by some. Latinos were classified as White by the U.S. Bureau of Census until 1980. White families were not impacted with discriminatory housing practices and had the ability to move off Section 14 ahead of the mass evictions in 1965.

<sup>141</sup> Human Rights Commission, April 12, 2021, Public Comment, Audio Transcript.

<sup>142</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

**Mrs. Van Wiliams** received an eviction notice, but disregarded it and took a trip to Los Angeles. When she returned, her house-valued at \$7,500 and all her personal possessions had been destroyed. She had built the home in 1964 and had been a resident of Palm Springs since 1933.

**Mr. Homer Manning**, a member of the City Human Relations Council, was informed by his tenant that his building valued at 8,000 was about to be demolished. One morning he got notice to vacate. The next day, he said a bulldozer was ready to knock down the concrete block structure. He was able to retrieve some, but not all of his property.<sup>143</sup>

*“The dark, “Section 14 chapter” of the city’s history played out during Bogert’s initial period as mayor.”<sup>144</sup>*

The Desert Sun Editorial Board

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## **The Raymundo Kobo Equestrian Sculpture: A Monument With Two Meanings**

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At a time when the city is committed to advancing equity and social justice we need to ask ourselves: 1) Does the monument in front of city hall reflect the values of people being honored; 2) Is the monument memorializing a time very different from that we live today; 3) Is the monument simply a symbol of a cowboy hero that rose to have a significant influence in Palm Springs’ culture? 4) How does one part of the community separate the painful legacy of racial discrimination and racial segregation that occurred under Frank Bogert’s leadership in Palm Springs while another group places a monument in his honor at city hall? 5) Should we not honor Frank Bogert and simultaneously acknowledge the history and his leadership in razing Section 14? 6) Do we not view the monument as a relic of the past that needs to be removed, but as a permanent part of our history that can teach generations about where we have come? and 7) Is it more appropriate for the monument to be placed in another location away from the entrance to the People’s House?

It shall forever be known Black, Indigenous and people of color residents and working-class families touched directly or impacted by the demolition of Section 14 and for all residents who

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<sup>143</sup> Loren Miller, Jr., Palm Springs Section 14 Demolition, (report by California Department of Justice, Office of the Attorney General), May 31, 1968; Desert Sun, April 3, 1967, Cleanup Under State Probe.

<sup>144</sup> Desert Sun, July 5, 2020, Editorial: Palm Springs must come together to decide the fate of the Frank Bogert statue, The Desert Sun Editorial Board.

support racial equality and social justice, that the statute symbolizes a painful legacy of racial anxiety and racial discrimination in our community.<sup>145</sup>

It is acknowledged that the monument unveiled March 31, 1990 was paid for by individual donations,<sup>146</sup> and was intended to be a tribute to Frank Bogert and a reminder to all residents of Palm Springs' Western heritage.

The 1968, U.S. Department of Justice, California Attorney General's report found the city of Palm Springs under Mayor Frank Bogert's leadership, not only disregarded the residents of Section 14 as property-owners, taxpayers, and voters; Palm Springs ignored that the residents of Section 14 were human beings. As a city, we recognize, acknowledge, and accept the 1968 Department of Justice Attorney General's report, "Palm Springs, Section 14 Demolition." The report charges homes belonging to minority residents of Section 14 "were destroyed by a city-engineered holocaust."<sup>147</sup>

Frank Bogert, was a realtor and mayor of Palm Springs when he also served as a conservator for a Indian landowner. An investigation by the United States Secretary of the Interior Stewart Udall found revenues Bogert earned from the Indian lands had been paid in fees and other charges through fee splitting that was ruled improper under California law. Further, Udall stated fees collected by Bogert belong to the landowner's estate and are deemed held in constructive trust for the estate. The Secretary of Interior further stated conservatorship proceedings are used against Indians for purposes wholly unrelated to their protection or to the preservation of their estates. The investigation concluded with, "We are convinced that the court administered fiduciary system under which the property of a majority of the members of the Agua Caliente Band has been managed for the last decade has wholly failed their needs and must be replaced or radically revised."<sup>148</sup>

### **Attorney General's Report Called Out for Conducting Minor Investigation, However, No Grievance or Rebuttal was Filed by any Official in Palm Springs**

Some argue the Attorney General's report on Palm Springs' cleanup of Section 14 is biased and wantonly ignores the facts.<sup>149</sup> A November 26, 1968 Desert Sun story recounts the deputy attorney general could have spent three or four days in Palm Springs investigating but no city official can in good faith credit him with as much as a week.<sup>150</sup> Community members argue that decisions are being made without seeking firsthand knowledge of what happened or they are

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<sup>145</sup> Desert Sun, June 24, 2020, Petition calls for removal of Frank Bogert statue outside Palm Springs City Hall, Colin Atagi.

<sup>146</sup> Director of Community & Economic Development, September 15, 2004, Letter to City Council, p. 4.

<sup>147</sup> Loren Miller, Jr., Palm Springs Section 14 Demolition, (report by California Department of Justice, Office of the Attorney General), May 31, 1968.

<sup>148</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968.

<sup>149</sup> Desert Sun, June 4, 1968, Report Biased, City Heads Say, John Hunter

<sup>150</sup> Desert Sun, November 26, 1968, Complete Report Compiled in Brief Visit, Al Tostado.

being based on a 15-minute visit by the attorney general.<sup>151</sup> The mayor at the time of the cleanup in 1966, said, I never received a single complaint or phone call in connection with the program.

As this report was written no evidence was uncovered to support complaints from city officials or others were filed as a grievance or in rebuttal to the attorney general findings or to the final report issued by the department of justice. There is also no evidence that any complaint was filed against the U.S. Department of the Interior, Office of the Secretary who published their Palm Springs Task Force investigation findings, or with the House of Representatives, Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs who held a fact finding hearing on the guardianship and conservatorship program and issues of Section 14 and whose findings were subsequently published by the House of Representatives in 1968.

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## The People Are The City -

### **The People Spoke Out Against the Monument In 1989 and They Speak Out Today**

Many in the Black community opposed the monument at the time it was installed in 1989 and their voice was not heard by those in power then and now their voice is disregarded. For the last 31 years, the monument has been an offensive symbol to the Black, Indigenous, people of color community and it has served as a reminder of oppression a racist actions against their community.

**Ron Oden** Palm Springs' first openly gay Black mayor discussed changes the city should make with NBC Palm Springs. "Recognize what happened, that's a part of our history, but we don't want to glorify things that we know never should have happened. And, you know, maybe it (the statue) just doesn't need to go in front of city hall."<sup>152</sup>

**The Palm Springs Black History Committee.** Is promoting the removal of the statue on the organization's website, [Palm Springs Black History Committee](#)

**Shawnda Faveau**, "Please listen to the Black community and hear them when we say enough. Move the statue, please."

**Ginny Foat** "It's well documented that Frank Bogert was racist, homophobic, and that is also well documented that the act was so horrendous and was an necessary for an attorney general investigation and that investigation concluded that it was an egregious act of racism. I think it is time to remove the symbol of hate from in front of what we should refer to as the people's building.

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<sup>151</sup> Public Comment by Tom Kiley at the April 12, 2021 Human Rights Commission meeting.

<sup>152</sup> News Channel 3, July 9, 2020 7:38 pm., [Karen Devine](#).

It will not make up or remove all the pain and harm that it has caused to any of the families that still live in Palm Springs or those who have moved since from Palm Springs nor will it erase the racism that still permeates our present. But what I think it will acknowledge is that we recognize the racism, we recognize the pain and we are willing to act upon it by removing this symbol of hate.

This does not negate the good that happened to our city when Frank Bogert was the Mayor. He was not the only one responsible for those horrendous acts at the time. But he is the only one with a monument in front of the city hall. And so, I ask the city council to remove the Frank Bogert Monument, and this one small way we acknowledge the harm that was done to so many of our fellow Palm Springs residents both past and present. we cannot excuse it. by saying that was then and this is now. it is time now to do that, to right that wrong.”<sup>153</sup>

**Janel Hunt** said, “when I drive past that statue, I know I can’t even look at it. I grew up knowing what that statue meant because my granny, Connie Crawford,<sup>154</sup> she instilled that in me, said hey, you know what, it has not been easy. It has not been easy even for me as a Black woman.”<sup>155</sup>

**Jarvis Crawford**, “Palm Springs Black History Committee President, said he would sign the petition, as members of the local Black community opposed Bogert’s statue at the time it was installed. Any statue that showed racial injustice, I’m all for it to go,” Crawford added, “Frank Bogert pretty much let it be known he didn’t care about the Black community.”<sup>156</sup>

**Lonnie McWilliams Sr.**, grew up in section 14 near downtown Palm Springs. He says he still remembers the day his family was forced out of their home and into Desert Highland Gateway Estates. “They didn’t want us downtown, so they made that and got us all out here,” said Lonnie McWilliams Sr, “They tricked us, hurt us, or whatever, and it was different up here. It turned out to be a violent neighborhood. Even the police wouldn’t come up here.”

“They wanted to erase every essence of us in Palm Springs and that hurt me to my heart because this is my town, I was born here,” said McWilliams. “I think it should be taken down and stored somewhere, that’s the history of Palm Springs and it should be preserved somewhere, just not out in public view,” said McWilliams.<sup>157</sup>

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<sup>153</sup> Palm Springs City Council Meeting, Listening Session July 18, 2020, 11:00 A.M., Unofficial Transcript.

<sup>154</sup> Claudy V. Crawford lived in Palm Springs from 1946 to her passing May 20, 2015.

<sup>155</sup> Palm Springs City Council Meeting, Listening Session July 18, 2020, 11:00 A.M., Unofficial Transcript.

<sup>156</sup> Desert Sun, June 24, 2020, Petition calls for removal of Frank Bogert monument outside Palm Springs City Hall.

<sup>157</sup> NBC Palm Springs, June 26, 2020 5:42 PM, Former Section 14 Resident Urges Council To Remove Frank Bogert Statue, Olivia Sandusky.



**Brothers of the Desert.** On November 7, 2020, the organization passed a resolution in support of moving the statue of Frank Bogert from its placement on the Palm Springs City Hall campus (APPENDIX A).<sup>158</sup>

**Pam Muncie,** “Bogert always referred to the Blacks and the gay people as the [pejorative use] “coloreds and the homos.” In addition, he never permitted any gay bars or clubs in Palm Springs and made it nearly impossible for gay people to rent a home in Palm Springs. However, if you were wealthy and drove a Rolls Royce like Liberace, Bogert would turn a blind eye. So, I wholeheartedly disagree with anyone who says that Bogert made Palm Springs because he did not. What he did to the people in Section 14, was heartless and unspeakable. For decades, every time I drive past the city hall, I shake my head wondering why anyone would want to honor such a person. I’m white and I’m not gay but I know right from wrong. To erect a monument of a person, illustrates the “honor and value” you place upon the person. Bogert deserves neither. Remove the statue.”<sup>159</sup>

**Facebook** “We have a collection of over 1,700 members of all race orientations, genders, and philosophical beliefs within our group. And this has really brought a wonderful amount of community involvement to discuss this issue. And I welcome anybody who is interested to join in on the conversation, to join with our Palm Springs Facebook page.”<sup>160</sup>

**Change.org petition,** 2,454 people have signed in support of removing the monument from in front of city hall.<sup>161</sup>

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**“Frank was many things but Frank was not a racist.”<sup>162</sup>**

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Lauded as a pioneer and founding father of Palm Springs, Frank Bogert was not short on admiration and love from community members, friends and family. He passed on March 22, 2009 and continues to be regarded as an iconic brand, and an honorable and fair man who treated everyone equally. It’s a mistake to underestimate Bogert and his amiable “aw Shucks”

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<sup>158</sup> Resolution approved by the Brothers of the Desert November 7, 2020.

<sup>159</sup> NBC Palm Springs, June 26, 2020 5:42 PM, Former Section 14 Resident Urges Council To Remove Frank Bogert Statue, Online comment to interview by Olivia Sandusky.

<sup>160</sup> City of Palm Springs Special Meeting July 18, 2020, Public Comment, Courtnee (no last name).

<sup>161</sup> <https://www.change.org>, online petition organized by David Weiner.

<sup>162</sup> Frank Purcell, July 1, 2020, Letter to City Council.

manner. "He is able to see through the complex issues, not in an analytical sense, but with a common sense of what needs to be done," [recalled Norm King](#) in a 1984 Desert Sun article.<sup>163</sup>

A common thread in public comments received at seven official city meetings in 1989, 2017, 2020 and 2021, centered on Bogert's character traits and attributes as observed through each individual's frame of reference. Comments were made at the following meetings:

- [The City Council](#) and Councilmembers received forty-two emails, letters and public comments at three regular meetings and one special meeting from June 25 to July 23, 2020 supporting Frank Bogert's legacy of civic and community service. Twelve comments and two additional letters supported moving the monument.
- [The Palm Springs](#) Public Art Commission received eleven public comments, on a non agenda item during two meetings May 11, 2017 and June 8, 2017 citing the positive aspects of Frank Bogert's character and voiced opposition to the removal of his monument from city hall.
- [The Human Rights Commission](#) received four public comments at the April 12, 2021 regular meeting and eleven emails submitted prior to the meeting citing the positive aspects of Frank Bogert's character and voiced opposition to the removal of the monument from city hall. Four comments and one additional letter supported moving the monument.

Frank Bogert's political legacy may never be superseded. He is remembered as a champion for all regardless of their race or creed. The memories of equal treatment of others and how he was all good things other than a racist or anti-Semite seem endless.

*Frank Bogert was a great man and a pioneer for the city of Palm Springs. He should be respected for his lifetime achievements for the city.*

*Kim Mason, July 23, 2020, Letter to city council.*

*He was a wonderful human being and did much for the Palm Springs area.*

*Kay Milem, June 30, 2020, Letter to city council.*

*I have known Frank Bogert personally and his family for over 50 years. He was always an honorable and fair man that always considered all sides of any issue or any individual.*

*Art Miller Jr., July 1, 2020, Letter to city council.*

*He was helpful to the tribe and he was helpful to all citizens of every color, black, white, yellow and red.*

*Susan Smith, April 12, 2021, Audio transcript from public comment.*

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<sup>163</sup> Desert Sun, November 15, 1984, Bogert: A little bit about the man PS chamber is honoring, Carl Love.

*Frank's alleged sexism was an act — and women understood that Frank Bogert treated everyone equally — with a feigned disrespect. Yes, sometimes his words were what we used to call "colorful," but were never intended to demean. His barbs were part of his persona which most people understood were in jest.*

*Norm King, July 13, 2020, Desert Sun, Valley Voice  
Mr. King is a former city manager of Palm Springs.*

*Not only was he not a racist, or a bigot, he was in fact, the complete opposite. He was kind and loving to everyone. He treated everyone the same.*

*Lori Russell, June 30, 2020, Letter to city council.*

*I remember him most for his equal treatment of others. Watching him interact with the widest spectrum of individuals, I always admired the fact that his approach didn't vary based on social status, race, gender, etc.*

*Jenna Higuera, July 8, 2020, Letter to Councilmember Middleton.*

*He treated everyone equally and for this reason was loved by people from all walks of life.*

*Donna Higuera, June 30, 2020, letter to Councilmember Middleton*

*The attacks on Mayor Bogert for being a racist and anti-Semite are ridiculous for those of us who have known him. Mr. Bogert was a man of his times - gruff and outspoken with no interest in political correctness. His concern was to do the right thing for the people of Palm Springs.*

*Ron Gregory, June 20, 2020, Letter to city council.*

*Frank was a tireless community booster and a champion for all the City's citizens, regardless of their race or creed.*

*Richard Service, June 25, 2020, Letter to city council.*

*Frank had a Hispanic wife and children. His first wife was Jewish. The man was not a racist.*

*David Christian, April 12, 2021, Letter to City Council*

With just the quotes here, one can see Frank Bogert was loved and respected by friends, family and many who knew him. This consensus of people who share similar opinions and beliefs of Bogert and feel the majority of people share the same beliefs, attitudes and values is overestimated as viewed as a false consensus.<sup>164</sup>

With this report, we look beyond the public comments, the political, economic and social structures of those yielding the power to define a reality based on their conscious belief. We looked beyond our advantages and entitlements to acknowledge our privilege. In doing so, we

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<sup>164</sup> Verywellmind.com, January 20, 2021, List of Common Cognitive Biases, Kendra Cherry.

become aware of the complex oppression, inequity and discrimination faced by those evicted under a the city of Palm Springs 1960s policies of urban renewal. We have heard from three generations raised in the wake of Section 14. Their voice tells of a different reality. One of racial oppression. This report amplifies their voices.

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## Where was his stewardship?

### Bogert's Positive Traits and Attributes Did Not Surface to Aid Those Being Evicted.

Bogert was perceived as wholesome and values based by people who share similar opinions and beliefs. We've taken all the supportive comments of Bogert as being a good man and not a racist and have searched to find documentation of Bogert demonstrating his anti-racist values and traits with the decisions he made as mayor from 1958 to 1966.

History documents Bogert was more often found to disregard the values of ethical and moral principles. His decisions in planning and preparing the community for low-cost housing and to plan for financial support of the families the city displaced is a demonstration of behaviors opposite of the positive traits community members have shared at official city meetings ([see "Frank was many things but Frank was not a racist"](#)).

In our opinion, the reality of Bogert's decisions and judgement while serving his first term as mayor was mismatched between his actual behaviour and actions and a community's perception of the person he was. The persona did not match the reality.

We understand people imagine reasons why particular political action occurs. We also understand how easily that imagined reasoning may differ from the real reasons. During Frank Bogerts first term in office, residents were forcibly displaced from Section 14 where the city's poor and working class lived for decades. He did not act alone and the issue of urban reform was complex and nuanced.<sup>165</sup> Bogert understood low cost housing was not available to those families evicted from Section 14. Yet, how did a man of deeply grounded anti-racist values support racially biased policies through the darkest period in city history?

A society based on norms and values expects one with entrenched values would have acted in good faith and stepped up to stop the eviction process until low-cost housing alternatives and financial support was made available to the impacted families. Hundreds of families harmed and generations of others realize the mayor did not practice the values and faith his supporters

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<sup>165</sup> Palm Springs Historical Society, July 6, 2020, Letter to city council, Tracey Conrad.

believed he represented. Bogert demonstrated no effort to address the harms caused by these evictions.

His bigger than life persona allowed him to appear principled without adhering to strict principles and values in his city council decision making and leadership. Understanding that moral is subjective and therefore, different for different people helps us see why a person can find an action completely moralistic despite it being completely immoral to another person.<sup>166</sup>

Real life testimony directly from individuals and family members who witnessed the burning and razing of their homes, their friends homes, their entire community, are evidence of the human cost of decisions made when Frank Bogert was mayor from 1958-1966.

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## Summary: Speaking Our Truth

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The Human Rights Commission supports the idea of immortalizing and honoring important historical figures throughout the city including in front of city hall.

We acknowledge the Raymundo Kobo equestrian sculpture honors Frank Bogert's decades of service to the Palm Springs community and that Bogert served a pivotal role in enhancing the image of Palm Springs. It's appropriate to recognize Frank Bogert's positive contributions and acknowledge him as a founding father.

It is equally important the narrative of Frank Bogert as a Palm Springs legend not omit his legacy and leadership in razing Section 14, from 1958 to 1966, while serving as Mayor of Palm Springs.

It is acknowledged that civic leaders, councilmembers and city employees were involved with attempting to dispossess the Indians of their tribal lands and erase any blighted neighborhoods that might degrade "the city beautiful." Palm Springs officials successfully removed the city's people of color and restructured the race and class configuration of the city.<sup>167</sup> However, there was only one mayor who oversaw the entire process from 1958 to 1966. And, there is only one person involved in the city's dark period of evictions, demolishing, and burning of homes with a monument in front of the People's House.

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<sup>166</sup> The Guardian.com, November 17, 2016, It's only wrong when You do it! The psychology of hypocrisy, Article, <https://www.theguardian.com/science/brain-flapping/2016/nov/17/its-only-wrong-when-you-do-it-the-psychology-of-hypocrisy>, Dean Burnett.

<sup>167</sup> University of California Press, Pacific Historical Review, Vol. 73, No. 1, February 2004, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, p. 85, Ryan M. Kray.

**“It takes many good deeds to build a good reputation, and only one bad one to lose it.”**

Benjamin Franklin

The good and just deeds of an individual can not be considered apart from racial bias, or the actions of segregation, and terror brought on a community. The city’s history will forever acknowledge and document those who directly contributed to the horrific act of razing Section 14 and whose actions were absent any values of equality, equity, and justice.

## Desert Sun Editor’s Recollections: 1987-1995

“But despite the decades of praise and accolades for his contributions to Palm Springs, Bogert's reputation of discriminatory actions and racist comments persisted. And, while many local leaders recognized his shortcomings, many also dismissed them because they believed he was a product of the times in which he'd lived. There was also at least one occasion when one didn't.

Palm Springs resident Joan Behrmann knew Bogert while she was editor of Desert Sun from 1987 to 1995 and said, "he (Bogert) didn't care what he said about anybody."

"The thing about Frank was he didn't censor himself. He was a good old boy and he said the first thing that came to his mind," Behrmann said. "You couldn't help but like him. He was a likable guy. Having said that, he certainly made racist remarks and belittled women. It was just part of his makeup. He was very old school."

She also recalled an encounter during a pow wow in downtown Palm Springs in the early 1990s between Bogert and the late Agua Caliente Band of Cahuilla Indians Tribal Chairman Richard Milanovich. Bogert made a racist comment Behrmann declined to specify and Milanovich "went ballistic," she said.<sup>168</sup>

The Frank Bogert Monument in front of city hall is a hurtful symbol of systemic racism which the current Palm Springs City Council has declared a public health crisis.<sup>169</sup> The significance of being the only monument at city hall makes this symbolism even more hurtful.

We can't deny the monument itself is a symbol of pain suffered by three generations that call Palm Springs home. We don't deny the monument should tell the history and the Frank Bogert legacy should forever remind all who see itl of the man who put the city on the map and gave us our Western roots - just not on the front steps of the People's House.

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<sup>168</sup> Desert Sun, June 24, 2020, Petition calls for removal of Frank Bogert statue outside Palm Springs City Hall, Colin Atagi.

<sup>169</sup> City of Palm Springs Resolution 24792, August 6, 2020

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## The Conclusion

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The monument on the lawn in front of the People's House is seen as a tribute for some and for everyone else, the visual and emotional reality is a powerful, hurtful and enduring symbol of systemic racism. The monument must be moved from public property, at Palm Springs City Hall and serve as a historical tribute in another location.

*"We were in the heart of the civil rights movement, and at the very height of civil rights in America, Palm Springs was burning people of color's homes," McPeters said. "It's definitely a part of Palm Springs history and legacy that's a real dark spot, a dark time, but one that needs to be remembered..... so we don't allow ourselves to ever repeat the horrors of our past."<sup>170</sup>*

**Rev. Carl McPeters**

Human Rights Commission  
City of Palm Springs  
3200 E Tahquitz Canyon Way  
Palm Springs, CA 92262

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<sup>170</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy. Carl McPeters lived on Section 14 until he was about 7 years old.

## APPENDIX A

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November 7, 2020

### Brothers of the Desert: Resolution Regarding Frank Bogert Monument

Whereas, Frank Bogert served as Palm Springs mayor during the time that Black and brown residents of the city were handily displaced from their homes in “Section 14” in the 1960s – and their homes were razed with little regard for where they would relocate and live;

Whereas, Mr. Bogert’s leadership style and personality also depict a flagrant disrespect for the full personhood of Black residents and other marginalized residents;

Whereas, the State Attorney General’s Office in 1968 noted the city of Palm Springs failed the residents who were displaced and thereby did not act in the spirit of the state;

Whereas, notable and respected leaders in this community, who are also aforementioned descendants of those directly affected by Section 14 evictions, have publicly expressed support for removing the statue;

Whereas, the prominent placement of the statue in front of city hall – in a community that many Brothers of the Desert now call home – sends a subliminal message that the city venerates and seeks to memorialize individuals who hold bigoted views and act inappropriately toward residents of color;

Whereas, removing the statue would be a gesture toward healing in the community of Palm Springs, among all residents and particularly the Black residents who never received a public apology from the city for how their families were evicted and mistreated;

Whereas, the statue is a symbol in opposition of early Black residents of Palm Springs “thriving” in the community as homeowners in Section 14, an area centrally located in the city where residents of color lived prior to the aforementioned evictions;

Whereas, the legacy of this inappropriate act by the city, led by then-Mayor Frank Bogert, continues for the descendants of displaced Black residents who became part of northern Palm Springs neighborhood, notably Desert Highland Gateway Estates, and other areas disproportionately affected by inequities in health, access to healthy food sources and general livelihood;

RESOLVE: Be it resolved that the Brothers of the Desert organization supports the petition to remove the statue of Frank Bogert from its placement on the Palm Springs City Hall campus.



## APPENDIX B

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### Section 14 - Summary

Section 14 is reservation land of the Agua Caliente Band of Cahuilla Indians. It is a 640 acre square-mile of land near the downtown center of Palm Springs bounded by Alejo Rd., Sunrise Way, Ramon Rd., and Indian Canyon Dr. As the resort industry boomed in Palm Springs in the early part of the 1900s, the need for workers grew along with it and Section 14 became one of the only residential locations for low-cost housing.

Housing was affordable in Section 14 because of the lack of building restrictions made possible by its status as reservation land. There were problems with utilities and sewer service and the neighborhood began to be viewed as a “blighted” area to Palm Springs city planners. Section 14 was also a matter of concern to city officials who began to have a vision for the downtown area that didn’t include affordable housing and its ethnic majority.

During the 1930s and 40s Palm Springs struggled with its identity. It had been “discovered” by Hollywood and the hoped-for commerce associated with movie making and glamorous stars became its master plan. Section 14 no longer fit this image. Unsightly living conditions would not attract the sought after developers the city had in mind. City officials devised a controversial abatement plan, worked with the Agua Caliente and Bureau of Indian Affairs to take back the land.

After the abatement approval, eviction notices were served to the residents of Section 14 beginning in early 1951. The burning of condemned structures in Section 14 began in 1956. Some residents returned home from work to find their houses and belongings destroyed. It may have been the location of the only affordable housing in the area for the workers who supported the hotel and construction industries but Palm Springs officials took the chance that eradicating the homes in Section 14 would not affect the progress of developing their “ideal city.” They were partially right in that the minorities displaced in Section 14 found housing in nearby North Palm Springs and Banning. 100s of Black families were displaced from their homes in Section 14. Some settled in an area in north Palm Springs. Others relocated to Banning, 22 miles to the west.

Palm Springs financial institutions would not give loans to evicted minority residents so many of them turned to the Dunes Construction Company in Banning. Dunes Construction arranged home loans for many of the evicted Black families and built a 85 home subdivision just north of the Palm Springs city limits called Desert Highlands. Some of these loans were arranged through the San Gorgonio Bank in Banning and the Sterling Savings and Loan in Riverside. Other evicted families moved to Banning and built or rented homes there, at the time all east of Hargrave Street.

According to a January 1970 article printed in the Riverside Press Enterprise, the Black population in Banning in 1960 was approximately 500. After the Section 14 evictions were completed in 1966, Banning’s Black population had nearly tripled to roughly 1300. This represented approximately 13% of Banning’s total population at the time. Many of these displaced individuals from Palm Springs kept their jobs there and commuted daily from Banning for years until retirement.<sup>171</sup>

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<sup>171</sup> Banning Library District, May 25, 2012, The Black Pioneers of the San Gorgonio Pass, Part 1: A Look at the History of the Black Community in Banning from the 1940s to 1965, p. 2.

## APPENDIX C

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### Select Community Statements

- A. Janel Hunt, Audio Transcript from public comment, Human Rights Commission, April 12, 2021.
- B. Uken Report, July 26, 2020, Honor Victims: Remove Bogert Statue, Ginny Foat, Claire J. Grant, Op-ed.
- C. Uken Report, June 23, 2020, Frank Bogert Promulgated Bigotry, Steve Garey, Op-ed.
- D. Desert Sun, July 5, 2020, Editorial, Desert Sun Editorial Board.
- E. Letter to Mayor and Council regarding the statue of Frank Bogert in front of city hall. July 7, 2020, Robert Julian Stone, Op-ed.
- F. Terri Milton, June 29, 2020, email to city council.
- G. Patricia Pyle, July 1, 2020, email to Geoff Kors.
- H. Martha McCool, July 1, 2020, email to Geoff Kors.
- I. Human Rights Commission, April 12, 2021, Public comment emails.

**Human Rights Commission**

**Palm Springs**

Regular Meeting April 12, 2021

UNOFFICIAL AUDIO TRANSCRIPT

JANEL HUNT

CHAIR DEHARTE

JENNY FOAT, JENNY YOU'VE GOT THREE MINUTES JENNY FOR PUBLIC COMMENTS IS IS MUTED OKAY CAN DO I DO THAT NOW YES PERFECT OKAY SO AND THEN

JENNY FOAT

FIRST OF ALL THANK THE HUMAN RIGHTS COMMISSION FOR TAKING ON THE IMPORTANT ISSUE OF RACISM IN OUR CITY UH HISTORY AND RECOGNIZING THAT OUR PAST IS NOT ALL GLAMOUR AND HOLLYWOOD STORIES SO SINCE MOVING TO PALM SPRINGS IN THE 90S I HAD ALWAYS ADMIRERED THE INCREDIBLE MID-CENTURY ARCHITECTURE OF OUR BEAUTIFUL CITY HALL AS A CITY COUNCIL MEMBER I WOULD WONDER EVERY TIME I WAS AT CITY HALL WHY THERE WAS A STATUE OF A COWBOY MARRING THE FRONT VIEW OF THIS ICONIC BUILDING I READ ABOUT THE HISTORY OF THE PERIOD THAT MAYOR FRANK BOGART LED OUR CITY AND I WAS HORRIFIED YES OUR CITY GREW FROM THE PLAYGROUND OF THE STARS DURING HIS TENURE BUT THE HORRORS THAT WERE PERPETRATED ON THE MOSTLY MINORITY WORKING POOR OF OUR CITY TO GET US THERE WERE UNFAVORABLE UNDER BOGART'S LEADERSHIP HUNDREDS OF FAMILIES LOST EVERYTHING AS HE AND THE CITY COUNCILS OVERSAW THE BURNING OF THEIR HOMES AND THEIR POSSESSIONS TO QUOTE CLEAR OUT THE SQUALOR WHICH WAS HIS TERM FOR THE JUSTIFYING THE BURNING OF SECTION 14. COMPENSATION HELP WITH RELOCATION OR ANY OTHER MINOR ASSISTANCE MUCH LESS AN APOLOGY WAS NEVER PROVIDED TO THE FAMILIES AS THEY WATCHED THEIR HOMES AND PERSONAL BELONGINGS GO UP IN FLAMES AS A CITY COUNCIL MEMBER I HAD THE OPPORTUNITY TO REQUEST THAT THE STATUTE REMOVED THAT REQUEST WAS SENT TO THE PUBLIC ART COMMISSION WHERE IT DIED BECAUSE OF WHAT SEEMS TO BE FINALLY AN AWARENESS OF THE RACISM THAT HAS EXISTED PEOPLE ARE LOOKING AT HISTORY IN A DIFFERENT LIGHT IT IS ALSO WELL DOCUMENTED THAT THE BACK OF BURNING SECTION 14 WAS SO HORRENDOUS THAT IT TRIGGERED AN ATTORNEY GENERAL REPORT AND A FEDERAL INVESTIGATION BOTH OF THOSE INVESTIGATION CONCLUDED THAT AMONG OTHER THINGS IT WAS AN EGREGIOUS ACT OF RACISM IT'S TIME TO REMOVE THE SYMBOL OF HATE FROM IN FRONT OF THE PEOPLE'S BUILDING IT WILL NOT MAKE UP FOR ALL THE PAIN AND HARM THAT WAS CAUSED TO MANY OF THE FAMILIES THAT STILL LIVE IN PALM SPRINGS NOR WILL IT RAISE THE RACISM THAT EXTENDED THEN AND STILL PERMEATES OUR PRESENT BUT WHAT IT WILL ACKNOWLEDGE IS THAT WE AS A CITY RECOGNIZE THE RACISM AND WE RECOGNIZE THE PAIN AND ARE WILLING TO ACT UPON IT BOCA WAS NOT THE ONLY ONE RESPONSIBLE FOR THE HORRENDOUS ACTS OF THAT TIME BUT HE WAS IN CHARGE AND IS THE ONLY ONE WITH A STATUE IN FRONT OF CITY

HALL THE CITY CAN NEVER GIVE BACK WHAT WAS TAKEN FROM THE RESIDENTS OF SECTION 14 DON'T COMPENSATE THEM FOR ALL THAT THEY HAVE LOST WE MOST IMPORTANTLY CAN NEVER GIVE BACK THEIR DIGNITY THEIR HOMES OR THEIR POSSESSIONS BUT BY ACKNOWLEDGING THESE WRONGS WE IN SOME SMALL WAY PROTECT THE FUTURE FROM THESE ATROCITIES FROM EVER BEING PERPETRATED AGAIN SO I I REALLY THINK THAT THE THE RESOLUTION YOU'RE ABOUT TO DISCUSS IS WELL WRITTEN AND INCLUDES MANY OF THE PARTS OF HISTORY THAT ARE COVERED BY THIS PART OF OUR TERRIBLE TIME THANK YOU

CHAIR DEHARTE

THANK YOU JENNY AND JANELLE HAS HER HAND UP AND PUT IN CHAT THAT SHE WOULD LIKE TO SPEAK

JANELLE HUNT

MR CHAIR IF WE COULD ALSO ASK EVERYONE TO PLEASE MUTE YOURSELVES WE'RE GETTING FEEDBACK HERE AS OUR SPEAKERS ARE MAKING THEIR COMMENTS AND UH SUSAN SMITH IS ALSO IN THE QUEUE THANK YOU JANELLE YOU'RE ON THERE YOU GO OKAY THANK YOU HI MY NAME IS JANELLE HYDE UM I JUST WANTED TO GIVE YOU GUYS A LITTLE BIT OF BACKGROUND FOR THOSE OF YOU WHO ARE JOINING US HERE THIS EVENING AND THANK YOU FOR GIVING US AN OPPORTUNITY TO SPEAK HOWEVER YOU KNOW MY FAMILY THERE'S A LOT OF FAMILIES WITHIN THE DESERT HIGHLANDER GATEWAY STATES AREA WHO CAME FROM TEXAS AND YES THEY CAME FROM TEXAS UM AND MIGRATED AND THEY MOVED TO SECTION 14 ON SECTION 14 A LOT OF THEIR HOMES OR PERSONAL PROPERTIES OR BELONGINGS UM WERE RIPPED AWAY WITH SOME WITH NO PRIOR KNOWLEDGE YOU KNOW TO COME HOME I WANT YOU TO THINK ABOUT IF YOU WERE TO COME HOME ONE DAY AND NOT SEE YOUR HOUSE STANDING HERE WHAT WOULD YOU DO WHAT WOULD YOU DO YOU'RE GOING TO BE ANGRY YOU'RE GOING TO BE SAD YOU'RE GOING TO BE HURT AND NOT NOT TO MENTION PEOPLE HAD KIDS KIDS THAT WERE AFFECTED BY IT AND THEN WITHIN THE ATTORNEY AGENDA REPORT ONCE THEY INVOLVED FRANK ONCE THEY INVOLVED ATTORNEY GENERAL ATTORNEY GENERAL IT WAS CITED THAT BOGART SAID THEY WERE POOR BLACKS HE ADDED THAT THEY COME FROM TEXAS OR WHEREVER AND THEY SETTLED IN SECTION 14 INDIAN LAND WHERE THEY COULD LIVE RENT FREE SOME OF THE HOTELS IN THE CENTER OF THE TOWN THOUGHT IT WAS A BAD IMAGE FOR THE CENTER FOR THE CENTER OF PALM SPRINGS WITHOUT ANY REGARD HOUSES WERE JUST DEMOLISHED PEOPLE HAD TO UPROOT AND GO WHEREVER THEY COULD SOME WERE ABLE TO MIKE TO GO TO CROSLY CROSSY TRACKS SOME WERE ABLE TO UM GO TO INDIA MY GRANNY WAS ONE OF THE PEOPLE THAT WAS ABLE TO BUY A HOUSE DURING THAT PROCESS I MOVED TO THE OLD SIDE OF THE DESERT WHERE THE OPPOSITE SIDE OF THE DESERT HIGHLIGHT THE STATES AREA BUT HOWEVER HOW CAN THE CITY IF YOU SAY YOU ARE HERE FOR ALL PEOPLE ALL PEOPLE THAT INCLUDES MY ANCESTORS MY FAMILY MEMBERS THAT WERE UPROOTED FROM SECTION 14. THAT'S A WHOLE NEIGHBORHOOD OUT HERE THAT YOU'RE SAYING BASICALLY YOU'RE SAYING YOU

NOW WHAT WE HAVE NO REGARD FOR WHATEVER HAPPENED TO YOUR FAMILY BY LETTING THAT STATUTE STAY THERE MOVE IT SOMEPLACE ELSE BUT IF THAT IS THAT IS A CITY BUILDING AND YOU'RE TELLING US THAT THAT IS REPRESENTING THAT IS A REPRESENTATION OF ALL PEOPLE OF ALL PEOPLE FEELING LIKE THEY'RE WELCOME NO IT'S THAT'S ALL I GOT TO SAY

CHAIR DEHARTE

THANK YOU JANELLE APPRECIATE THAT AND NEXT WE'VE GOT

JANELLE HUNT

YOU KNOW PEOPLE TALK ABOUT THAT THIS IS WHAT'S WRITTEN IN BOOKS OR NEWSPAPERS ARTICLES THERE ARE FIRST-HAND ACCOUNTS THAT I LISTENED TO YOU FROM MY GRANNY CLAUDIA CRAWFORD TAUGHT ME I DIDN'T KNOW YOU KNOW HER YOU KNOW HER BECAUSE SHE WORKED FOR ME BUT FIRSTHAND ACCOUNTS OF NUMBERS OF FAMILY MEMBERS THAT LISTENED ON SECTION 14 IT WAS NOT ANYTHING THAT WAS JUST WRITTEN IT DOWN TO ACCORDING TO ATTORNEY GENERAL REPORT THESE ARE FIRST-HAND ACCOUNTS STORIES MEMORIES THAT WERE SHARED NOT ONE TIME NOT TWO TIMES BUT EVERY OPPORTUNITY WHERE A

COFFEE BAR CAME ABOUT SO I HAVE TONS OF STORIES YES THAT MIGHT BE READY TO SHARE SO THIS I MEAN FOR YOU TO SIT THERE AND SAY THAT FAMILIES YES THIS IS WHAT TOO PLACE YES AND WE KNOW THAT IT WASN'T JUST FRANK FORT'S DOING BUT WE HAVE A MAN WE HAVE A STATUE OF A MAN THAT WE ARE THAT'S A SYMBOL THAT'S OF WHO CITY OF PALM SPRINGS IS THAT'S NOT RIGHT

CHAIR DEHARTE

THANK YOU JANELLE WE APPRECIATE THE COMMENTS THAT YOU BROUGHT FORWARD WITH THAT PUBLIC COMMENTS ARE CLOSED AND WE MOVE ON TO ITEM SIX

***“They are [leasing] the places for flat-out moochers,” said Mayor Bogert. “These people are not interested in improving themselves,” [Councilman] McCoubrey added.***

**Quote from an article justifying the demolition of as many as a thousand homes belonging to working class minority residents in Section 14.** Desert Sun, Volume 42, Number 92, 19 November 1968

Palm Springs has an incredibly complex history, but aside from the tales of Hollywood stars and wunderkind architects, much of its history has been left untold. For instance, many people don't know that this incredible world class tourist resort emerged from the unusual circumstances of having two totally separate but equal governing bodies in charge: The City Government of Palm Springs, and the Tribal Council of the Agua Caliente Tribe of Cahuilla Indians. This should be a source of tremendous pride for everyone who calls Palm Springs their home.

Unfortunately though, for the first half of Palm Springs' history, the Tribe had little control over this community or even over their own lands, upon which so much of Palm Springs rests today. It wasn't until the late 1950's that the Federal Government finally ceded control of the land back to the Tribe, but under the paternalistic condition that non-Indian conservators oversee the property and its proceeds.

One large parcel managed by these conservators is Section 14, located Downtown along Indian Avenue.

For decades before the 1960s Section 14 was home to hundreds of families who leased lots from the Tribe and built homes there. The residents of this neighborhood were the working class of Palm Springs. They washed clothes, dishes and floors at the nearby hotels and restaurants. They were mechanics, waiters, maids, carpenters, hair stylists and gardeners. The homes they built were as varied as the skills of the families who built them - some were little more than shacks, others were solidly constructed single family homes.

As Palm Springs became the “Playground to the Stars,” the Mayor and the City Council along with the Conservators (who were one and the same in most cases) realized that Section 14 provided an excellent opportunity for expansion of the downtown business district. They condemned Section 14, with it's mostly minority residents, as squalid. Ostensibly on the Tribe's behalf, the Conservators and the City created a plan to replace the neighborhood with new developments such as the Spa Hotel.

The City took charge of the evictions and the clearing of the land. 30-day eviction notices were supposedly sent to all the residents, but many families later testified that notice was never served, or if it was, the evictions were enforced the day the notice arrived. Every home in the neighborhood was burned to the ground, often with all of the families' belongings still inside.

Not surprisingly, no paper trail was kept by either the City or the Conservators, but estimates indicate that over two thousand mostly African American and Latinx citizens were driven from Palm Springs in this City-managed purge.

By today's standards, the methods used in this diaspora would be considered a human rights violation. But even in its own "less woke" era, the destruction of Section 14 was so egregious that it instigated both State and Federal investigations.

One of the damning conclusions of the State Attorney's investigation in 1968 was, "The manner in which the demolition of Section 14 was accomplished, makes it a classic study in civic disregard for the rights and feelings of minority citizens."

The burning of Section 14 was not one event, it started in 1958 and continued until 1966, the exact years that Frank Bogert was the Mayor of Palm Springs. Although others may share some responsibility, Frank Bogert was the man in charge during the City's purging of the minority population of Palm Springs. And he is the only one involved who has a statue in front of City Hall. This statue cannot be separated from the entirety of Mr. Bogert's record. It represents both the good and the bad of his tenure as the City's leader. For many, it serves as a reminder of the greed and racism that is a shameful chapter in Palm Springs' history. Nothing will ever change what happened, but we can honor the African American and Latinx families who were victims of this abuse of power by removing the Frank Bogert statue.

Ginny Foat - Former Palm Springs City Council - Email [gfinla@msn.com](mailto:gfinla@msn.com)

Claire Jordan Grant - Longtime Resident - Email [claireinneworleans@gmail.com](mailto:claireinneworleans@gmail.com)



POLITICS HEALTH EDUCATION NEWS BUSINESS VALLEY LIFE VETERANS OPINION

SHOP

Posted by Steve Garey | Jun 23, 2020 | Opinion



Frank Bogert spread an [atmosphere of bigotry](#) in this valley and it was impenetrable.

In the late 1970s in Palm Springs, even while being a popular and respected entertainer in town with a solid local following, I was denied housing because I was known to associate with "known homosexuals."

When I pressed the property manager about this bigotry I was told "even the mayor doesn't like the homos. You won't get anywhere complaining about it because you can't fight City Hall."

In 1980, I was booked to perform for a private function at the Spa Hotel in downtown Palm Springs where Frank Bogert was the honoree and was a speaker as well.

The attendees were primarily [his cronies](#), [his ilk](#). [Paul DiAmico](#), and the like, as I personally noticed. Monied, high-profile Jewish residents and powerful



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organized crime types that called this town their home. Mostly hand-chosen business owners and political donors, I'd say.

During his remarks Bogert stepped from behind the podium to in front of the podium and spoke without a microphone to those assembled. As I witnessed this, he joked briefly about the "coloreds" and the "homos" in a cavalier way. His audience laughed and cheered its approval of his open bigotry as it mirrored audience members' own thoughts.. It was fashionable in those days in this desert to put down the homosexuals and stereotype the "coloreds" as he called them.

This was a very racist Coachella Valley — full of like-minded people, as I and others experienced. I expressed my shock and horror to my agent who in turn informed me that she and her husband were long, longtime close, very close friends of Mayor Bogert and that perhaps I should "just keep your (my) lifestyle quiet" or "just take it to the nearest gay bar" because "no one in Palm Springs approves of the gays."

I watched in horror that day as Bogart received applause and approval from this assembled group of monied Palm Springs' self-described elite. In those days, as I recall, it was for all intents and purposes illegal — thanks to Mayor Bogart — for a gay-owned restaurant and bar to exist within the city limits. Thus, all the gay bars and restaurants were located outside the city limits in Cathedral City.

I recall when an openly gay Billy Reed wished to establish what the city feared would be a gay bar and restaurant in downtown Palm Springs, the city (mayor) quickly informed Mr. Reed of the consequences he would face from the Palm Springs Police Department.

The harassment tactics had, as I and others witnessed, always worked in the past in removing an openly gay-owned, gay-frequented business from downtown. It was later settled that Mr. Reed could open his gay business anywhere north of Vista Chino as a compromise. Thus, the first Billy Reed's Restaurant was opened in a location that is across the street and north a bit from their current legendary location.

It was not only known, but was accepted in my experience, that the gays were not to be visible anywhere in Palm Springs for any reason at any time whatsoever. It is my view that Frank Bogert was one of those responsible for the citywide exclusion of openly gay men and women and of the city's longstanding social policies of racism and intolerance towards those of African American descent.

Nowadays, every time I walk by or drive by that statue of Frank Bogert at City Hall, I am overwhelmed with sadness, I get a strong pain in my stomach, and am reminded quite loudly that all us homosexuals and blacks WERE NOT WELCOME IN PALM SPRINGS and of the horrible pain and suffering so many of



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SIGN ME UP!

us experienced at the hands of that man and of the culture of hatred that he and his cronies nurtured here.

Please, Palm Springs, it's time to remove that offensive statue of Frank Bogert from the steps of our City Hall and remove it now. Sign the petition [here](#).

Image Sources

- bigotry: Shutterstock

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### ABOUT THE AUTHOR

#### Steve Garey

Steve Garey is a concert pianist and former protégé of the late Liberace, He has performed for five U.S. presidents, has received two gold record awards, and has appeared on concert stages and television screens the world over. Steve Garey is now retired and continues to make the Coachella Valley his home."

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## APPENDIX C - D

This is Google's cache of <https://www.desertsun.com/story/opinion/editorials/2020/07/05/palm-springs-join-together-to-decide-frank-bogert-statue-fate-desert-sun-editorial-board/5369924002/>. It is a snapshot of the page as it appeared on Mar 31, 2021 19:37:07 GMT. The [current page](#) could have changed in the meantime. [Learn more.](#)

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## Desert Sun.

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### **EDITORIALS** | Opinion

*This piece expresses the views of its author(s), separate from those of this publication.*

## **Editorial: Palm Springs must come together to decide the fate of the Frank Bogert statue**

### **The Desert Sun Editorial Board**

Published 5:05 a.m. PT Jul. 5, 2020 | Updated 8:33 a.m. PT Jul. 5, 2020

A modern-day link to Palm Springs' past is the target of some residents who see it as a shameful symbol of racism.

As of Thursday, nearly 2,200 people had put their name to a petition on [change.org](#) that calls for removing the statue of former Mayor Frank Bogert from City Hall grounds. Among the petition's signatories are Palm Springs residents, as well as people who live outside the city.

Bogert, who died in 2009, was appointed to the Palm Springs City Council in 1958 and served as mayor for eight years. He was re-elected mayor in 1982 and served two terms.

The dark, "Section 14 chapter" of the city's history played out during Bogert's initial period as mayor.

Section 14 — a 1-square-mile section east of downtown Palm Springs that is part of the Agua Caliente Band of Cahuilla Indians Reservation — had been home to mostly Black and Latino families who were asked, and later ordered, to leave before their houses were razed to make way for redevelopment. That downtown section today features the Convention Center and the Agua Caliente tribe's casino, entertainment and cultural developments.

"There is much more to this history, but the bottom line is that Frank Bogert, who was instrumental in these atrocities against Palm Springs residents, has been memorialized by a prominent statue of him in front of Palm Springs City Hall that was installed in 1990," activist David Weiner wrote in his [change.org](#) petition. "We, the residents, citizens and visitors of Palm Springs, California, believe it is time to remove the statue to a man that only represented White Palm Springs during his time as a booster and politician."

### **MORE: 'You Can't Eat Dirt': Vyola Ortner and Section 14**

As noted in Desert Sun reporter Colin Atagi's story, this local controversy comes as similar efforts have targeted other monuments across the nation in the wake of the death at police hands of George Floyd and subsequent, widespread demonstrations against police brutality and racial discrimination.

As protests were being held in recent weeks in the Coachella Valley, current Palm Springs Mayor Geoff Kors urged, among other moves, that a formal city apology be made for the actions taken in Section 14. We agreed in a June 14 editorial that this was long overdue.

Questions about the statue are more complex.

There are more than a few Palm Springs devotees who would argue that saying Bogert "only represented White Palm Springs during his time as a booster and politician" is over-simplifying history. A private Facebook group, "Frank Bogert the Man not the Myth" has nearly 1,600 members.

Recent letters sent to The Desert Sun Opinion forum argue that whatever his human failings, Bogert was instrumental in propelling the city from somewhat sleepy desert outpost to the premier global destination its current leaders proudly tout today.

"Through educational endeavors, perhaps Bogert's cowboy bronze could be contextualized and interpreted so that there is a better understanding of the history of Palm Springs. We urge you to NOT erase an individual that helped make our history, but to add more public art that confronts our history in compelling ways," Palm Springs residents Greg and Katherine Hough wrote in a letter published on July 2.

Simply said, it seems there is no consensus yet on what should be done about the Bogert statue.

This issue has come up before. What's happening across our nation today makes this specific discussion by the entire community of Palm Springs vital. It must happen now.

To that end, we believe all residents should be encouraged to join this conversation in a format that educates the public on the history of the city and Bogert's role and the entirety of his life.

Kors told The Desert Sun he supports public discussion about the matter.

"I do believe there should be a process and not just a quick vote, because I believe everyone in our community will benefit from hearing from everyone who's impacted," Kors said.

Executive Editor Julie Makinen has offered The Desert Sun's archive for use in a potential public symposium that could dive into the history with the use of reporting from the period. A panel of local historians and perhaps even some of Bogert's contemporaries could be assembled to offer context and answer questions and share their experiences.

Have the conversation, Palm Springs. Then use that knowledge to decide together what to do.

## APPENDIX C - E

### Robert Julian Stone

Letter to Mayor and Council regarding the statue of Frank Bogert in front of city hall.

July 7, 2020

The history of Section 14, razed while Bogert was mayor, is well know. Minority residents were moved out forcibly, their homes demolished. An image of Bogert from the 1950s recently appeared in the Desert Sun, showing him with the all-female Agua Caliente Tribal Council, suggesting he helped convince the Federal Government to allow long-term leases of Tribal lands. But those long-term leases benefited white developers who would, and did, make more money from the land than the tribe until casinos arrived.

Frank Bogert was good at keeping Palm Springs white. He did not participate in the Civil Rights movement nor did he propose anti-discrimination ordinances. Old Las Palmas properties still contain an obsolete CC&R covenant that prohibit sales of properties therein to Chinese or Negro buyers. Bruce Fessier, in a 2009 Desert Sun column, recalls Bogert was the manager of Thunderbird County Club who, in 1951, told Jewish applicants they weren't welcome.

Bogert's second stint as Palm Springs' mayor was 1982-1988. During that time, no one got a permit to open a gay bar in Palm Springs. When I arrived here in 1978, there were only two Palm Springs gay resorts, and they survived on the down-low. Gay people were not welcome in Palm Springs, and we knew it. But there was a thriving gay scene just down the road in Cathedral City, featuring resorts, bars, and dance clubs which generated substantial revenue for that city.

In 1984, as dying AIDS patients began moving to Palm Springs, Mayor Bogert lambasted a proposal to build a hotel for AIDS patients. A 2017 article in Palm Springs Life recalls Bogert telling a UPI reporter, "The whole world has got the idea that this is a place to get AIDS." That stinging and preposterous fallacy reflects a bigoted consciousness and a lack of compassion for those who, at the time, were the most vulnerable minority in America. Bogert did not improve with age. In 1990, Bogert dropped out of participating in an AIDS Walk-a-Thon.

It took the election of Sonny Bono, in 1988, to open Palm Springs to gay visitors and businesses and to start our important film festival. White Party inaugurated in 1989 and Gloria Green opened the first Palm Springs gay bar in 1991. Bogert did not hesitate to express his disdain for Mayor Bono, calling him both "chicken shit" and "a big nothing." In 1995, with the election of Mayor Ron Oden, Palm Springs got its first minority councilmember. And this brings us to the important reason for removing the Bogert sculpture from City Hall.

In order to build the future Palm Springs, we must step away from the consciousness of exclusion and discrimination. Father did not know best. For many Palm Springs residents, the statue of Bogert stands as an affront to the long struggle for equality - a struggle Old Palm Springs consciously repressed. The man, and the art, do not represent the future our City deserves.

## APPENDIX C - F

**From:** [Christy Holstege](#)  
**To:** [Terri M](#)  
**Subject:** Re: Leave Mayor Bogert Statue  
**Date:** Monday, June 29, 2020 12:35:00 PM

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Thank you Terri.

**Christy Gilbert Holstege, Esq.**  
Mayor Pro Tem

City of Palm Springs                      Tel: (760) 323-8200  
3200 E. Tahquitz Canyon Way        Fax: (760) 323-8207  
Palm Springs, CA 92262  
[www.palmspringsca.gov](http://www.palmspringsca.gov)                christy.holstege@palmspringsca.gov

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**From:** Terri M <terrilmilton4@aol.com>  
**Sent:** Monday, June 29, 2020 12:10 PM  
**To:** Geof.Kors@palmspringsca.gov <Geof.Kors@palmspringsca.gov>; Christy Holstege <Christy.Holstege@palmspringsca.gov>; Dennis Woods <Dennis.Woods@palmspringsca.gov>; Lisa Middleton <Lisa.Middleton@palmspringsca.gov>; Grace Garner <Grace.Garner@palmspringsca.gov>  
**Cc:** CityClerk <CityClerk@palmspringsca.gov>  
**Subject:** Leave Mayor Bogert Statue



Monday, June 29, 2020

Dear Mayor Kors and Councilmembers:

I love our cowboy!

Frank Bogert was the only person I knew that spoke his mind, made a decision, and moved on. He showed real leadership, unlike we see today. He was kind and funny. I believe the statue should stay. It represents the grit of all pioneers and Indians that worked together to make Palm Springs a great destination. Presidents couldn't wait to meet him at the foot of the stairs. I'm proud to have served the city with him.

It is the right of the people to petition for whatever they want in this country, but it is also more important to get the facts right. Mayor Bogert single-handedly did not clear out Section 14 of its residents. You should know that better than anyone. There were many people, including Indians, involved in the issue. See the articles written and submitted to the National Museum of American Indian, [https://www.si.edu/search?edan\\_q=Agua%2BCaliente&](https://www.si.edu/search?edan_q=Agua%2BCaliente&)

Here is another story about the area you might want to read. There were many people, government agencies and conservators involved. <https://www.americanindianmagazine.org/story/section-14>

Please don't consider erasing history. Leave the statue on display. He did a lot of good for Palm Springs as evidenced by his re-election so many times.

Sincerely,  
Terri Milton

## APPENDIX C - G

**From:** [Patricia Pyle](#)  
**To:** [Geoff Kors](#)  
**Subject:** Frank Bogert statue PLEASE KEEP  
**Date:** Wednesday, July 1, 2020 9:13:57 PM

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E

I am saddened to hear that anyone would consider removing Mayor Bogert's statue. Please do what you can to prevent the removal of the statue. Thank you.

Sent from my iPhone

APPENDIX C - H

**From:** [Martha McCool](#)  
**To:** [Geoff Kors](#)  
**Subject:** Mayor Bogert's Statue must stand  
**Date:** Wednesday, July 1, 2020 4:39:56 PM

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**E**

**Please keep Mayor Bogert's Statue standing.**

Education does NOT erase / eliminate parts of history. It tells the story. For some folks, the story may not be wonderful; for others, the story could be fabulous.

No two people think exactly the same way.

Mayor Bogert did a great deal paving the way for the development and expansion of the Palm Springs area, and he must continue to be honored. He has put Palm Springs on the map, and it is now a tourist destination.

The "destructive" forces have not thought this through.

Martha McCool

La Quinta, CA



APPENDIX C - I

From: **fritz hummel** hummelfritz3@gmail.com

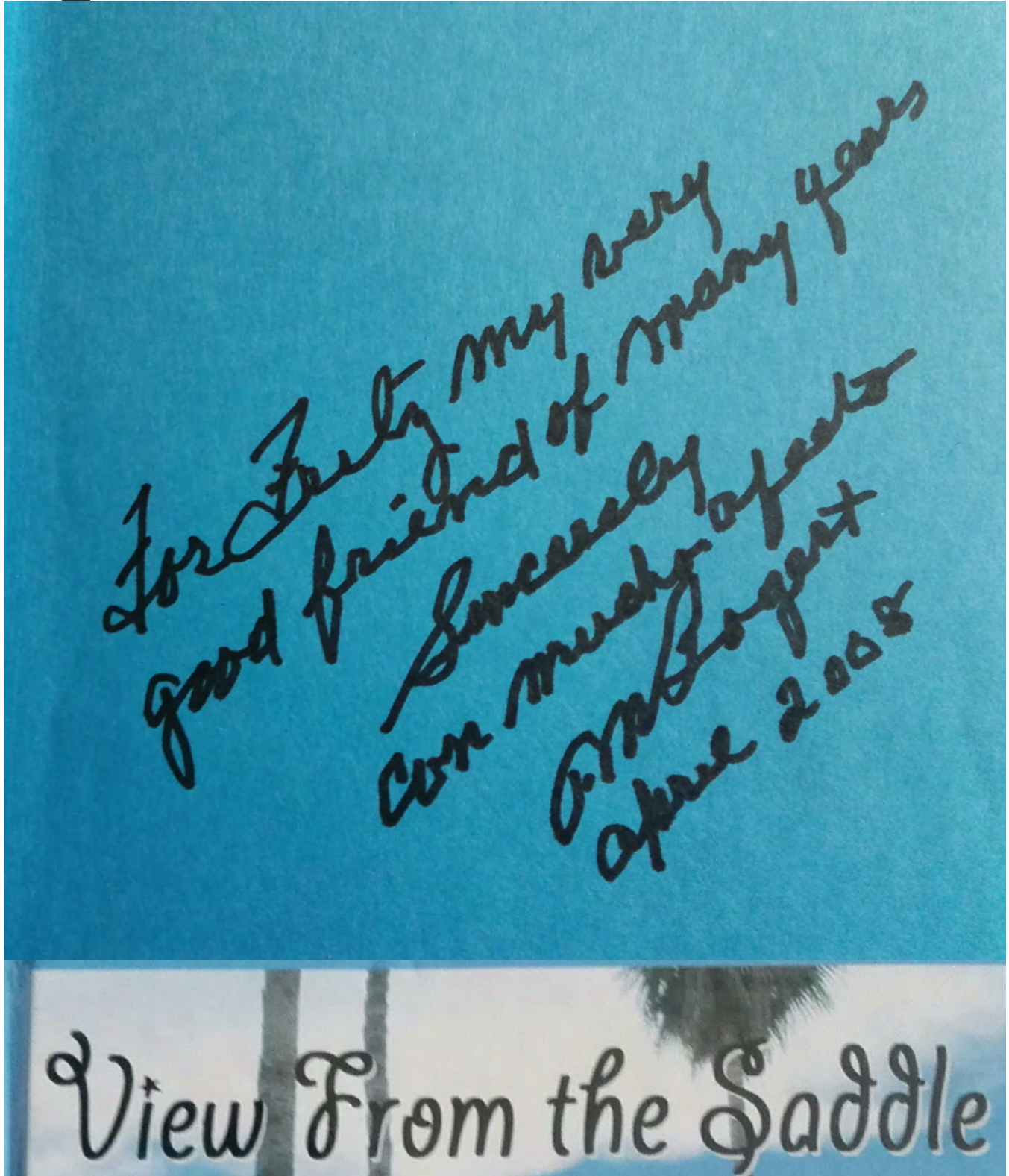
Subject: Frank Bogert Statue! Please dont remove this important monument from one of the well known man in Palm Springs! I visited Frank many times and he told me a lot about the nativ Amerikans! And I hope there is a big protest from the Rancheros Visitadores...

Date: April 13, 2021 at 8:07 AM

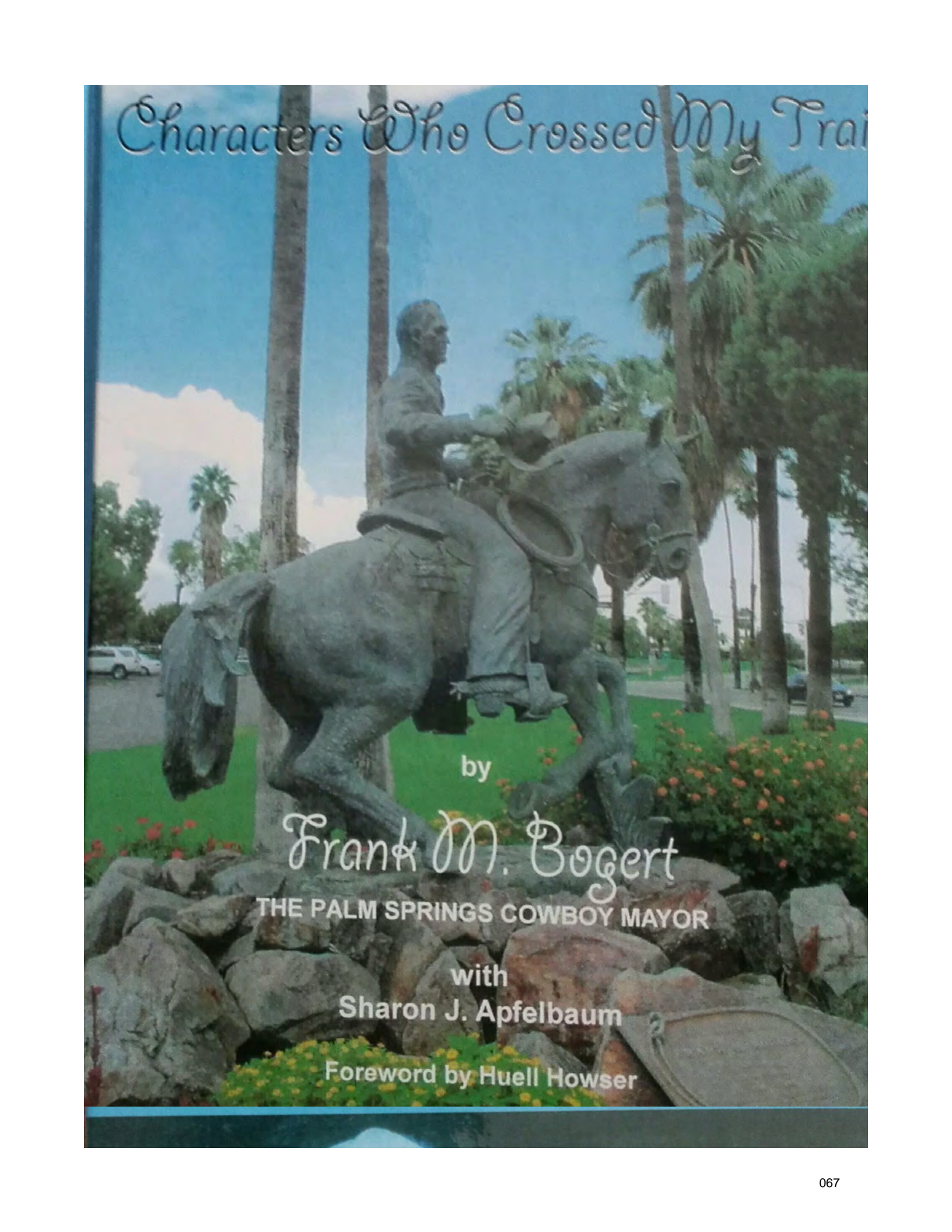
To: City Clerk CityClerk@palmspringsca.gov

FH

E







Characters Who Crossed My Trail

by

Frank M. Bogert

THE PALM SPRINGS COWBOY MAYOR

with

Sharon J. Apfelbaum

Foreword by Huell Howser









# Valley Voice: Mayor Bogert's caustic persona belied his truly inclusive nature

Norm King

Special to The Desert Sun, July 13, 2020

[View Comments](#)



Frank Bogert treated everyone equally — with a feigned disrespect. Yes, sometimes his words were what we used to call "colorful," but were never intended to demean. His barbs were part of his persona which most people understood were in jest.

I never heard Frank speak with malice or with the intent to denigrate anyone because of sex, race or sexual orientation. Frank's alleged sexism was an act — and women understood that. He was one of the most inclusive people I ever met. He was not a racist.

Frank had the respect of Highland Gateway community leaders who would drop into City Hall to chat. His good friend, Rabbi Joe Hurwitz, gave a eulogy at Frank's memorial service held at Temple Isaiah. Frank had strong ties to the Latino community. He was respected by his many friends who were Mexican citizens. His wife was Mexican. In my recollection, Frank's reputation with the Agua Caliente tribe was that he was one of few whites in the 1960s who could be trusted.

It's been charged that Frank was "racist" because he was mayor when the city evicted people living in Section 14 in the 1960s. The claim by David Weiner that Bogert operated a "series of schemes" is unsupported character-assassination.



**Petition calls for removal of Frank Bogert statue outside Palm Springs City Hall**  
**Editorial: Palm Springs must come together to decide the fate of the Frank Bogert statue**  
**'You Can't Eat Dirt': Tribal leader Vyola Ortner and the transformation of Section 14**  
**Letter: It's unfair to put Section 14 moves solely on Palm Springs Mayor Frank Bogert**

These legal evictions must be viewed in context of Indian land ownership of Section 14. They were the inevitable consequence of the federal government's race-based policies of not allowing the Indian owners to lease their land long term. This restriction guaranteed substandard development; no "up-to-code" new buildings on a five-year lease could possibly be profitable to a developer.

Beginning in the early 1950s, health officials cited the properties as unsafe with the intent to demolish. By the late 1950s, the federal government did two things inevitably resulting in the evictions.

First, reservation land was allocated to tribal members, with each receiving part of Section 14. However, ownership did not solve the injustice of five-year leases.

This led to the heroic efforts of the all-female Tribal Council (who asked Bogert to accompany them on their visits to Washington D.C.) to convince Congress to grant long-term leasing rights.

By 1960, the Indian owners were ready to earn profits, and that meant clearing the illegal structures. The record shows Indian leaders (and the federal government) supported this.

Mayor Kors proposes the city issue an apology to evicted families and to the Indians. Mayor Kors ignores the tribe's support of the city's action so as to benefit from their land. An honest apology should come jointly from the City Council and the Tribal Council.

If Frank's statue is removed who else in the valley should not survive their pedestal?

Surely Bob Hope Drive should be renamed; Hope performed black-faced comedy roles. Modernism Week should be prohibited from offering tours for tourists of those former “celebrities” whose salacious behavior and sometimes racist comments are not acceptable. The McCallum Theatre should find a new name; John McCallum was notoriously anti-Indian and considered a scoundrel by some.

Arguably, Bogert was the most important figure in the establishment of Palm Springs as a major tourist destination. He was bigger than life and even if unsaddled at City Hall he will still stand taller than those who in their righteousness want to buck Frank off his horse.

I hope I will not have to live in a hypocritical city which tears down a statue of a legendary cowboy mayor — yet welcomes one of that belle of virtue — Marilyn Monroe.

*Email Norm King, Palm Springs City Manager from 1980 to 1990,  
at [normanrking@yahoo.com](mailto:normanrking@yahoo.com).*



From: dougsky1@aol.com   
Subject: Fwd: Human Rights Commission Item 7A.a (revised)  
Date: April 12, 2021 at 5:22 PM  
To: City Clerk CityClerk@palmsspringsca.gov



Please provide this email and a copy of the attachment to the Human Right Commission for its meeting today.

Dear Chairman deHarte and Members of the Commission-

I am writing this email on behalf of Friends of Frank Bogert and Ms Jackie Autry. Ms Autry was just made aware this item on your agenda and she asked me to forward the attached letter from Mr. Rod Pacheco which is a public records request regarding Section 14 and the Frank Bogert statue.

The agenda item is misleading and vague. The public is not provided with a staff report or any meaningful information regarding this agenda item and frankly the material attached to the agenda is a series of newspaper articles and a proposed draft ordinance regarding tobacco and cannabis.

I am providing the attached public records request to illustrate the fact that Frank Bogert, Section 14 and the Frank Bogert Sculpture have a long complex and important place in Palm Springs history. Take a look at the public records request and ask yourself if you have sufficient information to consider any type of recommendation regarding the Frank Bogert Sculpture.

The agenda and the materials attached to the agenda do not provide any meaningful information for the public to know the topic on the agenda, its background, or even why this is on the agenda.

Mrs. Autry and I respectfully request that this item be removed from the agenda until such time there is a meaningful staff report and supporting information regarding the Frank Bogert Statue.

Thank you in advance for your consideration of this request and we look forward to taking to the Commission when there is sufficient information to have a productive meeting.

Doug Evans  
Mrs. Jackie Autry



AUTRY - Bogert  
Statue...dy.pdf

From: **lori russell** [lorirps@gmail.com](mailto:lorirps@gmail.com)  
Subject: Re: Frank Bogert Statue Needs to Stay!  
Date: April 13, 2021 at 8:08 AM



To: Anthony Mejia [Anthony.Mejia@palmspringsca.gov](mailto:Anthony.Mejia@palmspringsca.gov)  
Cc: CityManager [CityManager@palmspringsca.gov](mailto:CityManager@palmspringsca.gov), Christy Holstege [Christy.Holstege@palmspringsca.gov](mailto:Christy.Holstege@palmspringsca.gov), Geoff Kors [Geoff.Kors@palmspringsca.gov](mailto:Geoff.Kors@palmspringsca.gov), Lisa Middleton [Lisa.Middleton@palmspringsca.gov](mailto:Lisa.Middleton@palmspringsca.gov), Llubi Rios [Llubi.Rios@palmspringsca.gov](mailto:Llubi.Rios@palmspringsca.gov), Dennis Woods [Dennis.Woods@palmspringsca.gov](mailto:Dennis.Woods@palmspringsca.gov), Grace Garner [Grace.Garner@palmspringsca.gov](mailto:Grace.Garner@palmspringsca.gov)



To The City of Palm Springs Mayor and City Council,

I heard that the discussion of removing my grandfather's statue is being brought up again. I think it was part of a discussion last night. I just wanted to ask you all again to please just refer to the documents that are on record that were produced at the time that all of this was taking place. NOT from people's "recollections" or versions of what they think happened with Section 14. I have read many of those versions over the years. But I also have read the actual historical documents that tell a very different story... Additionally, I have spoken to my grandfather in the past about what really happened. Please don't let people drag his name through the mud anymore. It is so hurtful for his family to hear these things about a great man.

We just lost his oldest grandson, my brother (named after him) a few weeks ago and are trying to navigate through that as a family. And it is overwhelming to say the least.

Please feel free to call me at any time to hear from someone who grew up knowing him and loving Frank Bogert. Thank you for listening, I beg you to hear us.

With Respect,  
Lori Russell  
760-413-9977

On Tue, Jun 30, 2020 at 10:14 AM lori russell <[lorirps@gmail.com](mailto:lorirps@gmail.com)> wrote:

June 30, 2020

Re: My Grandfather Frank Bogert

To The City of Palm Springs

Hello, my name is Lori, I am Frank Bogert's oldest granddaughter.

I woke up about 10 days ago to a Facebook message about a petition to take down my grandfather's statue. It was like I had been kicked in the stomach. I had heard rumors of this back in 2017 but had hoped that it was just that, rumors. I immediately reached out to David Weiner on Facebook (the man who started the petition) and never received a response. I asked him to PLEASE call me to discuss his reasons for the petition. I was hoping to be able to contribute some positive information to the conversation, after all I knew the man all of my life.

For some this petition seems to be political, for some it may be about principal, and for some it just seems to be about jumping on the bandwagon. (One of the comments was actually "I guess we gotta start somewhere")....But for me and my family it was very personal. And very hurtful.

The originator of the petition didn't know my grandfather, and is not even a long time resident from what I understand... I moved here in 1989, and have never moved since. I was there for the dedication of that statue, and it meant a lot then, and it means a lot now. My mother is Frank's oldest daughter, who is just about to turn 80. She was born and raised here. The majority of his immediate family are still here! This affects us all.

The words that have been used about my grandfather, in some of the comments on the petition page, and by David Weiner himself, are disgusting. Not only was he *not* a racist, or a bigot, he was in fact, the complete opposite. He was kind and loving to EVERYONE. He treated everyone the same. I know everybody says that about the ones they love, but in my grandfather's case, there are still people around to testify to his character. That actually knew him!!

David Weiner and his fellow petitioners are throwing around erroneous snippets of history, without the basis of facts! This is really disturbing to his family, as these stories are inaccurate to say the least! Especially when discussing Section 14. There are documents and records of how that really happened. People need to do their research. There are people coming forward in my grandfather's defense that were around then too, that are bringing the real history of Section 14 to light.

I have a lot more to say, but just get emotional trying to defend a man that should never need defending.

Thank you for your time and consideration.

Lori Russell



Ron deHarte &lt;rdeharte@gmail.com&gt;

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**FW: Please forward to all Human Rights Commission members regarding this evening's meeting**

1 message

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**Jay Virata** <Jay.Virata@palmspringsca.gov>  
To: Jay Virata <Jay.Virata@palmspringsca.gov>  
Cc: Annie Rodriguez <Annie.Rodriguez@palmspringsca.gov>

Mon, Apr 12, 2021 at 1:59 PM

Commissioners,

Please see comments from Tracy Conrad.

Best regards,

Jay

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**From:** Anthony Mejia  
**Sent:** Monday, April 12, 2021 12:41 PM  
**To:** Jay Virata  
**Cc:** [tconrad412@aol.com](mailto:tconrad412@aol.com)  
**Subject:** Fwd: Please forward to all Human Rights Commission members regarding this evening's meeting

Jay:

Please distribute to HRC.

Anthony J. Mejia, MMC

City Clerk

Sent from my iPhone

Begin forwarded message:

**From:** [tconrad412@aol.com](mailto:tconrad412@aol.com)  
**Date:** April 12, 2021 at 12:33:29 PM PDT  
**To:** Anthony Mejia <[Anthony.Mejia@palmspringsca.gov](mailto:Anthony.Mejia@palmspringsca.gov)>  
**Subject:** Please forward to all Human Rights Commission members regarding this evening's meeting  
**Reply-To:** [tconrad412@aol.com](mailto:tconrad412@aol.com)

**E** Dear Anthony,

Below please find the letter written this past summer inviting the Council to enlist the help of the Historical Society in widely educating the community regarding the history of Section 14. The Human Rights Commission agenda discussing the Frank Bogert statue includes very little background information and I believe the commission would benefit by a more thorough understanding of the facts before making any recommendations.

Thank you kindly.

Tracy Conrad

President, Palm Springs Historical Society

Dear Mayor, Council and Staff,

On behalf of the Palm Springs Historical Society, I write concerning the current controversy regarding the history of Section 14 and the statue of Frank Bogert. Our Board of Directors, a diverse group including representatives from the Native American, Mexican American and African American communities in Palm Springs, met last week and agreed that the Society's resources should be available to the Council and the community as the City seeks a resolution to this issue. We are not a political organization, and seek only to help the community and the Council establish the relevant facts needed for a proper and productive discussion.

The history of Section 14 is exceedingly complicated. Our collection includes contemporaneous accounts, both documentary and first-person. Also, there are people alive today, some of whom lived on Section 14 and whose families were relocated, as well as some who served on the City Council at the time. A preliminary look at the resources available demonstrates a nuanced and complex struggle by the City and the Agua Caliente Band of Cahuilla Indians with poverty, urban decay, business interests in development, and tourism. Additional in-depth research is in progress already.

The Board of the Palm Springs Historical Society stands ready to assist the Council in an effort to surface the historical facts regarding Section 14 and facilitate a community-wide conversation. The Board believes that a thoughtful discussion is an important educational opportunity and would prove beneficial for all residents. It is our hope that meaningful interchange and education would promote healing through greater understanding of this complicated history.

Sincerely,

Tracy Conrad

President



Ron deHarte &lt;rdeharte@gmail.com&gt;

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**FW: Mayor Frank Bogert Statue**

1 message

**Jay Virata** <Jay.Virata@palmspringsca.gov>

Tue, Apr 13, 2021 at 3:23 PM

To: Jay Virata &lt;Jay.Virata@palmspringsca.gov&gt;

Cc: Anthony Mejia &lt;Anthony.Mejia@palmspringsca.gov&gt;, Annie Rodriguez &lt;Annie.Rodriguez@palmspringsca.gov&gt;

Hello Commissioners,

Below is an additional public comment.

Jay

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**From:** Anthony Mejia  
**Sent:** Tuesday, April 13, 2021 3:21 PM  
**To:** Jay Virata  
**Subject:** FW: Mayor Frank Bogert Statue

For distribution to the HRC.

**Anthony J. Mejia, MMC**

City Clerk

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**From:** Terri M <terrimilton4@aol.com>  
**Sent:** Tuesday, April 13, 2021 3:19 PM  
**To:** [Ron.deharte@palmspringsca.gov](mailto:Ron.deharte@palmspringsca.gov)  
**Cc:** City Clerk <[CityClerk@palmspringsca.gov](mailto:CityClerk@palmspringsca.gov)>; Christy Holstege <[Christy.Holstege@palmspringsca.gov](mailto:Christy.Holstege@palmspringsca.gov)>; Lisa Middleton <[Lisa.Middleton@palmspringsca.gov](mailto:Lisa.Middleton@palmspringsca.gov)>  
**Subject:** Mayor Frank Bogert Statue



Dear Ron deHarte,

Here is the Mission Statement displayed on the Human Rights Commission Agenda:

"Mission Statement

Palm Springs is an inclusive world-class city **dedicated to providing excellent and responsive public services to enhance the quality of life** for current and future generations."

To my knowledge, this is exactly what our Mayor Frank Bogert did in his day, "enhanced the quality of life" for those poor people of all colors who lived on Section 14. He worked with developer to create affordable housing so that the Indians could redevelop their land. Enhancing the quality of life. I hope you read the history.

Mayor Bogert did exactly what should have been done, what the people and the Tribe wanted. Why are you so against the statue? Please leave it alone. It represents the pioneer spirit of Palm Springs and the foundation of its citizens.

I am so saddened to learn that the Human Rights Commission voted to remove the statue from City Hall.

So disappointed in you and the Commission.

Sincerely,

Terri Milton

District 4



Ron deHarte &lt;rdeharte@gmail.com&gt;

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**FW: Frank Bogert's Statue**

1 message

**Jay Virata** <Jay.Virata@palmspringsca.gov>

Mon, Apr 12, 2021 at 2:00 PM

To: Jay Virata &lt;Jay.Virata@palmspringsca.gov&gt;

Cc: Annie Rodriguez &lt;Annie.Rodriguez@palmspringsca.gov&gt;, Anthony Mejia &lt;Anthony.Mejia@palmspringsca.gov&gt;

Commissioners,

Please see comments from John Stiles.

Best regards,

Jay

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**From:** Anthony Mejia**Sent:** Monday, April 12, 2021 12:45 PM**To:** Jay Virata**Subject:** Fwd: Frank Bogert's Statue

Please distribute to HRC

Anthony J. Mejia, MMC

City Clerk

Sent from my iPhone

Begin forwarded message:

**From:** John Stiles <outlook\_107006783604139E@outlook.com>**Date:** April 12, 2021 at 12:43:09 PM PDT**To:** City Clerk <CityClerk@palmspringsca.gov>**Subject:** Frank Bogert's Statue

Please forward to the Human Rights Commission.

Regarding Item 7A on today's agenda. Leave Frank Bogert's statue alone! The Commission needs to understand the complexity of the Section 14 before focusing on one individual. There are more important

080



Ron deHarte &lt;rdeharte@gmail.com&gt;

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**FW: Frank Bogert and Palm Springs**

1 message

**Jay Virata** <Jay.Virata@palmspringsca.gov>

Mon, Apr 12, 2021 at 2:02 PM

To: Jay Virata &lt;Jay.Virata@palmspringsca.gov&gt;

Cc: Anthony Mejia &lt;Anthony.Mejia@palmspringsca.gov&gt;, Annie Rodriguez &lt;Annie.Rodriguez@palmspringsca.gov&gt;

Commissioners,

Please see comments from David Christian.

Best regards,

Jay

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**From:** Anthony Mejia  
**Sent:** Monday, April 12, 2021 1:44 PM  
**To:** Jay Virata  
**Cc:** [dc@davidchristian.com](mailto:dc@davidchristian.com)  
**Subject:** Fwd: Frank Bogert and Palm Springs

Jay:

Please distribute to the HRC.

Anthony J. Mejia, MMC

City Clerk

Sent from my iPhone

Begin forwarded message:

**From:** David Christian <[dc@davidchristian.com](mailto:dc@davidchristian.com)>  
**Date:** April 12, 2021 at 1:39:39 PM PDT  
**To:** CityManager <[CityManager@palmspringsca.gov](mailto:CityManager@palmspringsca.gov)>, Geoff Kors <[Geoff.Kors@palmspringsca.gov](mailto:Geoff.Kors@palmspringsca.gov)>, Christy Holstege <[Christy.Holstege@palmspringsca.gov](mailto:Christy.Holstege@palmspringsca.gov)>, Lisa Middleton <[Lisa.Middleton@palmspringsca.gov](mailto:Lisa.Middleton@palmspringsca.gov)>, Grace Garner <[Grace.Garner@palmspringsca.gov](mailto:Grace.Garner@palmspringsca.gov)>, Dennis Woods <[Dennis.Woods@palmspringsca.gov](mailto:Dennis.Woods@palmspringsca.gov)>, Llubi Rios <[Llubi.Rios@palmspringsca.gov](mailto:Llubi.Rios@palmspringsca.gov)>, Cindy Cairns <[Cindy.Cairns@palmspringsca.gov](mailto:Cindy.Cairns@palmspringsca.gov)>, City Clerk <[CityClerk@palmspringsca.gov](mailto:CityClerk@palmspringsca.gov)>  
**Subject:** Frank Bogert and Palm Springs



E

Dear Mayor and City Council Members,

I was just informed that the Frank Bogert statue is on the agenda for today's (April 12 ) 5:30 Human Rights Commission meeting. So, I would like to submit the following for your review.

This will be brief.

- \* Frank Bogert did not handle the Section 14 evictions on his own. He did not have that authority.
- \* The land was owned by member of the Agua Caliente Band of Cahuilla Indians and they wanted to develop it.
- \* There were three times as many white families as "families of color" evicted from Section 14. So, who was the racial target here? The attached article by Tracy Conrad has more detail on this statement.
- \* These path of development are almost always messy and painful, but it had to be done for the future of Palm Springs. Taking action for the greatest good for the greatest number is a mainstay of city planning. Sad, but true.
- \* Take a few minutes and read some of the entries on this site. There is a lot to learn about Frank Bogert here.
- \* <https://www.facebook.com/groups/264197661349135/>
- \* Frank had a Hispanic wife and children. His first wife was Jewish. The man was not a racist.

Thank you much for your service to our lovely city, and please help us keep a statue in place that is but a small token of the gratitude that those of us who knew him feel toward Frank Bogert.

Best regards.

David

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David Christian  
Architecture & Interior Design

[431 Villaggio North](#)  
Palm Springs, CA [92262](#)

Phone:760-285-2220  
[dc@davidchristian.com](mailto:dc@davidchristian.com)

[www.davidchristian.com](http://www.davidchristian.com)


To the City Clerk of the City of Palm Springs, Would you please enter this email as well as the supporting attachment into the meeting minutes. Thanks, David

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#### 4 attachments



**Frank Bogert - Desert Sun[1].docx**  
28K

 **Desert Sun - July 5 2020 - You Can't Eat Dirt[4].pdf**  
1125K

 **Desert Sun - December 27 2015 - Section 14[4].pdf**  
320K

 **Desert Sun - July 12 2020 - Section 14[4].pdf**  
843K



Ron deHarte &lt;rdeharte@gmail.com&gt;

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**FW: Frank Bogert Statue**

1 message

**Jay Virata** <Jay.Virata@palmspringsca.gov>

Mon, Apr 12, 2021 at 4:49 PM

To: Jay Virata &lt;Jay.Virata@palmspringsca.gov&gt;

Cc: Anthony Mejia &lt;Anthony.Mejia@palmspringsca.gov&gt;, Annie Rodriguez &lt;Annie.Rodriguez@palmspringsca.gov&gt;

Hello Commissioners,

Here is additional information for this evening's meeting.

Best regards,

Jay

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**From:** david weiner [mailto:[david2400@hotmail.com](mailto:david2400@hotmail.com)]**Sent:** Monday, April 12, 2021 4:30 PM**To:** Jay Virata**Cc:** [rdeharte@gmail.com](mailto:rdeharte@gmail.com)**Subject:** Frank Bogert Statue**E**

Here is a link to the Change.org petition, currently at almost 2500 signers. In the updates section you will see many articles I posted from a variety of sources last summer that talked about the events in Section 14. There is also a list of the comments to the signers (when they added), which oftentimes includes the city of the commentator. I am sorry for the rush on this, it has been a grueling tax season for me.

[Petition · Remove statue of racist Frank Bogert from Palm Springs City Hall · Change.org](#)

[Supporter comments · Residents and visitors to Palm Springs CA: Remove statue of racist Frank Bogert from Palm Springs City Hall · Change.org](#)

[Supporter comments · Residents and visitors to Palm Springs CA: Remove statue of racist Frank Bogert from Palm Springs City Hall · Change.org](#)

I'm signing because a man who was known as a well known racist and homophobic man who used words like coloreds and gay homophobic slurs and spewed division and hate and never welcomed gay & African Americans in palm springs...why should he be immortalized like hero in 2020 when the world and this country has evolved and moved with the times and his way if thinking is not acceptable today and ...

[www.change.org](http://www.change.org)

Updates:

Community · Residents and visitors to Palm Springs CA: Remove statue of racist Frank Bogert from Palm Springs City Hall · [Change.org](http://Change.org)

Community · Residents and visitors to Palm Springs CA: Remove statue of racist Frank Bogert from Palm Springs City Hall · [Change.org](http://Change.org)

Remove statue of racist Frank Bogert from Palm Springs City Hall

[www.change.org](http://www.change.org)



Ron deHarte &lt;rdeharte@gmail.com&gt;

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**FW: Frank Bogert and Palm Springs**

1 message

**Jay Virata** <Jay.Virata@palmspringsca.gov>

Mon, Apr 12, 2021 at 4:09 PM

To: Jay Virata &lt;Jay.Virata@palmspringsca.gov&gt;

Cc: Annie Rodriguez &lt;Annie.Rodriguez@palmspringsca.gov&gt;, Anthony Mejia &lt;Anthony.Mejia@palmspringsca.gov&gt;

Hello Commissioners,

Here is additional written correspondence for your meeting this afternoon.

Best regards,

Jay

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Begin forwarded message:

**From:** Donna Higuera <jojohigi@aol.com>**Date:** April 12, 2021 at 3:46:53 PM PDT**To:** David Christian <dc@davidchristian.com>**Cc:** CityManager <CityManager@palmspringsca.gov>, Geoff Kors <Geoff.Kors@palmspringsca.gov>, Christy Holstege <Christy.Holstege@palmspringsca.gov>, Lisa Middleton <Lisa.Middleton@palmspringsca.gov>, Grace Garner <Grace.Garner@palmspringsca.gov>, Dennis Woods <Dennis.Woods@palmspringsca.gov>, Llubi Rios <Llubi.Rios@palmspringsca.gov>, Cindy Cairns <Cindy.Cairns@palmspringsca.gov>, City Clerk <CityClerk@palmspringsca.gov>**Subject: Re: Frank Bogert and Palm Springs**

Dear Mayor and City Council Members,

I would wager to say that we already know how the Human Rights Commission will vote regarding the location of my father's statue this evening. I am hoping one of you will have the courage to ask them if they have done their homework regarding the true facts pertaining to Section 14. I am assuming that the City Council has indeed studied these facts and has taken advantage of the Historical Society's offer to present them.

In considering their vote it is also my hope you will remember the hundreds of passionate letters that flooded City Hall refuting the allegations that Frank was a racist. I am also hoping at least a few of you took the time to read even a few of the comments made on the Facebook page that has almost 2,000 members. These people are long time residents from all walks of life, all races, and all gender identities who personally

knew Frank in some capacity or another. I doubt one person on the commission has ever met him and have formed their judgments on hearsay and false allegations.

If we are to seriously address human rights issues in our city it is my opinion and that of most who live here that we should put our energy into solving the homeless issue that has gotten out of control. With the hot summer months approaching it is imperative that we provide a solution to help those living on the streets.

Please do not waste precious city time and money on removing a statue of a man who dedicated his life to the city.

Respectfully,

Donna Higuera

Dear Mayor and City Council Members,

I was just informed that the Frank Bogert statue is on the agenda for today's (April 12 ) 5:30 Human Rights Commission meeting. So, I would like to submit the following for your review.

This will be brief.

- Frank Bogert did not handle the Section 14 evictions on his own. He did not have that authority.
- The land was owned by member of the Agua Caliente Band of Cahuilla Indians and they wanted to develop it.
- There were three times as many white families as "families of color" evicted from Section 14. So, who was the racial target here? The attached article by Tracy Conrad has more detail on this statement.

- These path of development are almost always messy and painful, but it had to be done for the future of Palm Springs. Taking action for the greatest good for the greatest number is a mainstay of city planning. Sad, but true.
- Take a few minutes and read some of the entries on this site. There is a lot to learn about Frank Bogert here.
- <https://www.facebook.com/groups/264197661349135/>
- Frank had a Hispanic wife and children. His first wife was Jewish. The man was not a racist.

Thank you much for your service to our lovely city, and please help us keep a statue in place that is but a small token of the gratitude that those of us who knew him feel toward Frank Bogert.

Best regards.

David

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## David Christian

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*To the City Clerk of the City of Palm Springs, Would you please enter this email as well as the supporting attachment into the meeting minutes. Thanks, David*

<Frank Bogert - Desert Sun[1].docx><Desert Sun - July 5 2020 - You Can't Eat Dirt[4].pdf><Desert Sun - December 27 2015 - Section 14[4].pdf><Desert Sun - July 12 2020 - Section 14[4].pdf>

## Subject: Frank Bogert statue

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**Tristan Milanovich** <tristaemma@gmail.com>

Mon, Apr 12, 6:15 PM (8 da

to CityManager, Christy Holstege, Cindy Cairns, City Clerk, Dennis Woods, Geoff Kors, Grace Garner, jojhigi@ao

**You are viewing an attached message.** Gmail can't verify the authenticity of attached messages.



Dear Mayor and City Council Members,

I understand you will be holding a vote shortly (if it hasn't already taken place) regarding the removal of the Frank statue. Please feel free to add my statement to the record.

I wanted to reach out and beg you to reconsider the removal. Palm Springs would not be what it is had it not been Frank. One person who knew that above most was my late father, Richard Milanovich, Chairman of The Agua Cali Band of Cahuilla Indians for nearly three decades. Frank and my father had a great friendship built on respect and admiration. My father understood the type of man Frank was, he knew his heart, and appreciated and loved Frank because of it. They had a great rapport. Frank was not racist. I trust that you have done your research to know what is being said about his involvement in Section 14 is inaccurate. My father knew this as well. The fact that my father spoke at Frank's funeral and what he had to say about Frank was a true testament to their friendship.

I can say with complete confidence that my father would not agree with the removal of the statue. Please reconsider.

Thank you for your time,  
Tristan Milanovich

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*Tristan Milanovich*  
951 751 2557



## APPENDIX D

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### Public Comment

1. [Public Arts Commission](#)
  2. [Human Rights Commission](#)
  3. [City of Palm Springs City Council](#)
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### Public Arts Commission - Public Comment

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This section includes a transcript of public comment made on a non-agenda item regarding the Frank Bogert monument at two Public Arts Commission meetings:

1. Thursday, May 11, 2017
2. Thursday, June 8, 2017

#### 1. **Regular Meeting, Thursday, May 11, 2017**

**Chair Sheffer** – (Re: Frank Bogert on Horseback sculpture) addressed the public that were in attendance; very impressed to have so many people come to the meeting; knows that this is something that everyone is very interested in; five minutes is assigned for each speaker, but if you feel that you're going to more or less repeat what someone else said I would ask you to try to just get your points across. The issue that you want to speak about is not, in fact, on our Agenda today so we can't take any action. We're not anywhere close to having it on our Agenda or doing anything; we really value hearing from you while we're thinking about whether to do something; when you come up to speak can you state your name and spell it for staff that records our Minutes.

**Jackie Autry** – A lot of the people here madam Chairman are here to talk about the possibility of moving the Frank Bogert statue away from city hall. I don't know how many are here for that sole purpose (asked for a show of hands), the majority of people here would like to talk to you about it; it's of deep concern to all of us; we've all personally known Frank Bogert over many, many years; I have been here for 58 years; he fixed me up with my first date when I was 18 years old and I'm 75 years old. Frank Bogert, I think, did more for this community than any one human being that I've ever known. The statue was put up to recognize his accomplishments and his contributions to this community; I think to move it away from the front of city hall would

be a travesty. I know this discussion has been on and off over the last couple of years and I'm hoping that this Arts Commission will see fit to keep it in front of city hall. If it's a matter of not knowing who he is or what he did for this community because there's no sign in front of it, I know there are a group of people, including myself and Harold Matzner, who would be very happy to put together sufficient funds to put a sign up that says what this man did for our town. He brought the Angels baseball team here; we would never have had a major league baseball team here if it hadn't been for Frank Bogert; the things he has built in the community were absolutely fabulous. Not to give him the recognition that he so truly deserves, I think would be an injustice. I don't know where you want to move this statue because if it's not in front of city hall it's not fitting to Frank. I just don't know how this city could even possibly think about moving it to another location. Someone has said it might go in front of the Palm Springs Air Museum; what has he got to do with the air museum, what has he got to do with anything, other than what he did for this community, in this town, as a Mayor over and over and over again. I don't know what else I can tell you; if you think about the cost that it will take to rebuild a base for it, to hire a crane to move it, the city is going to have to foot the bill and I think that's ridiculous. We're already wasting so much money on that stupid fountain on the corner of Palm Canyon and Alejo, one of these days I'm going to get a stick of dynamite and just throw it right in the middle of the fountain because we had a fountain that was built in front of the airport for \$25,000 and this fountain cost us \$66,000 not to count the hundreds of thousands of dollars it has cost us to maintain that silly fountain. It's always broken (at the height of the tourist season) so what good is it? Let's get rid of it and put something really nice there. Put a bronze or statue that would represent what everybody thinks this community is all about, this community is all about people and Frank was all about people, and he was all about this community, he loved this community, he came here in 1934, he helped build Thunderbird Country Club, he was a Manager of El Mirador Hotel; he was involved with the Mesquite Country Club which wouldn't be there if not for Frank. I could go on and on and on and I'm not going to bore you with that. I'm hoping you give serious consideration if it comes up in your meeting to not have it moved because if it is, there is going to be a storm of such proportion it will not even look close to what happened at city hall a few years back. You can see the small group of people that came out here today, I know if this had gotten out this whole room would have been packed so these were just based on a couple of phone calls and here we all are. I thank you for your time madam chairman and board members and Jennifer I hope you got that in your minutes correctly; I'll come back and read the minutes and make sure you got it down right, thank you for your time.

**Hugh Kaptur** – When I first came here in 1956 Frank Bogert was Mayor; he was more than a Mayor, he was the founder of Palm Springs and the statue, where it's located, is a perfect location for Frank Bogert because without Frank Bogert city hall probably wouldn't even be there. He was responsible for the beautiful fountain that adorns our airport. With his personality he brought people here from all over the world, particularly in the equestrian group; back then Palm Springs was a western town, and today, of course, the demographics have changed, but I don't think we can forget our past, our past is Frank Bogert; Frank Bogert is just as important to our past as any piece of architecture that has been built in Palm Springs, Thank you.

**Greg Hough** – I was simply going to defer to the previous two speakers because they couldn't have said it better; so in the interest of time we just want to multiply their thoughts by tenfold that it would be a travesty if that statue is moved from where it is today; hope you'll take that into consideration and we'll move along.

**Chair Sheffer** – I hope all of you, even if you don't speak, have signed the sheet so that we will know how many people were here; are there any other comments on this subject, or any other subject?

**Barbara Foster** – I am so upset about the thought that the Frank Bogert statue would be moved that I could hardly speak, but my mother always said, and my yoga teacher said to take deep breaths so I'm doing that before I get started, but while I came into this building today, Frank Bogert is really the reason we have a convention center as well. My husband, Bill Foster served on this Council for 20 years, he was Mayor for two terms, and Frank was Mayor for two terms; if Frank was alive today he would still be the Mayor, he was that well-loved, that well respected and there wasn't anything that Frank decided to do that he didn't complete. He was the biggest, most lovable character that loved this city with all his heart. He just was a one-of-a-kind person. I'm the one who got the money, put the statue there, celebrated the day, and Frank was there which was nice, because he was on my committee on my nonprofit corporation called the Walk of Stars; we had only put ten stars in; wanted to do something special for Frank, he was a star, but a star was not good enough. He had written two wonderful books called The First Hundred Years. Fortunately, he came here as a young man, as a photographer, and he took pictures of all the Indians, he took pictures of all the celebrities, he himself were in a lot of them, but as one of our speakers said, he managed so many of the clubs, he promoted everything; so getting to this convention center, I have pictures of me with Frank in the first convention center, and as a wife of a city councilmember for 22 years I had a lot of opinions, and I've been before the Council many times, and my remark, that is going into posterity, I said I'm Barbara Foster, I live at 603 La Mirada and I sleep with the Mayor; so that became one of my things for the historical society speeches. But Frank, because of his association with everybody, most particularly the Indians, we needed him desperately, Vyola Ortner needed him to go to Washington in the early days, we needed him to go to Washington many, many times; we needed his ability to get people together almost daily; I remember going through this and getting the whole building bonded, and I said to my husband, and Frank, "it's too small for God's sake, what's the matter with you people?" – a few days later had to refinance and get this. So please don't move Frank, it is a historical monument, it is not the category of art, it is a historical monument. I want to thank you for your time because I have served on four or five of these committees over 70 years, so I appreciate your time and appreciate you hearing from us. That's all I'm going to say, and my daughter will be so proud of me because I'm shutting up. Thank you.

**Negie Bogert** – I am the second wife; I want to introduce Frank's one grandson, Jordan; I want you to please take into consideration that the statue, not only because it represents a tribute to my husband, Frank, you have to consider that it was funded exclusively with public money; the city didn't have to pay one penny of anything that was done there. At that time Mrs. Foster was

part of the art in public places program; you can go into the coffers and find out that there was not a penny of the city's money put into that project. Thank you.

**Tom Kieley** – I'm second generation Palm Springs native; when my brother Owen and my great-grandmother came here 110 years ago in 1907, to a little dusty dirty road that was Main Street to start the Desert Inn hotel, she really kind of set in motion a character for this town; well, the real character came along in 1934 with a string of horses that he had driven down from Big Bear, he's the guy that never went away, we lost him for a few minutes to the war, but he never forgot his town. He came back to serve this town his entire life. I've had the great pleasure of riding the canyons and the desert trails with him all of my life. To say that he's an extraordinary man is an understatement. I think everyone here has a Frank story, everyone here can tell you about the tremendous sacrifices he made. My mother was fond of saying "how can you know where you're going if you don't know where you've come from" and that's why history was always so much a part of Owen's and my life growing up. We worked hard to preserve the history of this town, not to dwell in the past, but to remember where we came from, to know those people that made a difference for us, to know what it was, what courage it took to survive droughts and depressions, and to work tirelessly with your own money to bring in the entire world to America's destination resort. So, everybody can tell you a good story about Frank, but I think the real story is that we owe it to the past to honor the past, we particularly owe it to this incredible man that we maintain something that this town built for him; some of you may be really new timers here and I hope that you have as long a tenure as our family has, but I hope that in your changing of the character of this town you won't forget the town that welcomed you, that town was on people like Frank Bogert; we have been a welcoming and embracing town since the very beginning, since the first guests that Nellie Kauffman led into the Desert Inn Boarding House and we continue to do that, but let's not forget about those people who made that a welcoming place for us; let's not forget our history and let's know where we're going based upon those wonderful sacrifices that we were so so grateful to receive. Thank you.

**Owen Kauffman Kieley** – I am the great-grandson of Nellie Kauffman and the grandson of Earl Kauffman; I have been in the Palm Springs area for 62 years; I reside in one of the neighborhoods that Frank Bogert helped start called the Los Compadres tract; I still reside there, it is a horse community that many of you, and many at city hall, after having discussions with them over the last several months, are unaware of. This community was started, as my brother said, by Nellie Kauffman in 1907 and Frank came down the hill with a string of horses and there's been horses in this town and horse people in this town ever since. We are the past, we are here, we're the people that welcomed everybody and Frank was one of the most welcoming people I know. What a lot of people haven't said here today is he was a two-time Mayor; two terms of that he was also Fire Chief of the volunteer fire department of Palm Springs; there was a funny story about him not hearing the alarm one day and counting the bells and not realizing it was his house on fire until he got there. Frank's door was always open to you no matter who you were or what time of the day; if you went to the Mayor's office there was no email there, there was no phone call, when the next person was done you could talk to Frank. If Frank saw you on the street he remembered your name and he greeted you; and all of the things that Frank brought to this town and all the people he brought to this town and the events

to this town. The statue is a minor tribute to what the great things this man did, and he was city hall and always will be, and he needs to stay there in front of city hall. Thank you.

**Chair Sheffer** – Thank you all and actually the history has been wonderful to hear; one of our responsibilities as an Arts Commission is the maintenance and upkeep of the art; it does belong to the city and I think we really will take note of the idea of a plaque which has occurred to me before that a lot of our sculptures don't have a plaque that explains the history of them or why they're there. Most of our concerns, by the way, about moving it would have to do with whether it's visible where it is and whether anybody can come up to it and read the plaque and we really had just begun to scratch the surface, but I think we've all heard a lot today that will help us with that decision.

**Jackie Autry** – Hugh Kaptur is kind of a semi-retired architect, but he is a very well-known architect in this community, has built a lot of things and perhaps he would take it on as a project to design some kind of a sign that we could put up, that would encapsulate everything that's been said here today, and I, Jackie Autry, will take on the responsibility of raising the money on behalf of those signs, and however many you want to put up; Harold Matzner said to count him in on whatever is volunteered to pay, so I'm sure we'll get \$50 from everybody back here, maybe \$5, I don't know. Thank you.

**Chair Sheffer** – we can do a plaque on our own; anything

**Vice Chair Yanni** – thanked everyone for their input and for coming to the meeting and sharing the wonderful stories and telling us more about Frank Bogert and his legacy...I just can't thank you enough for coming to the meeting and letting us know what your feelings were, so thank you everyone.

**Jackie Autry** – you are going to be doing desert landscaping; then now is the time to put in the electrical conduit that you need to go to the statue to properly light it; I have a friend who is a lighting consultant who I can guarantee will donate his time or I'll break his neck; he never goes to another Angel baseball game and I'm sure he would volunteer this time; he has worked with the city before; his name is Ralph Raya and he's well known to the city and to all the communities really; he has worked for all the cities here in the desert for lighting, so he would be happy to do that on a volunteer basis to come up with some lighting that would work perfectly for the statue. Hugh Kaptur – to remove Frank Bogert's statue; Frank Bogert was Mr. Palm Springs and if you move that statue you better consider renaming Palm Springs.

## **2. Regular Meeting, Thursday, June 8, 2017**

**Jason Mascarenas** – I have been a resident here for 18 years, avid horseman for well over 40 years; my question today is because of the buzz that the Frank Bogert statue was being considered for relocation, I have not received any definite word on that.

**Chair Sheffer** – it is off the table; there will be no further discussion that we're planning to have.

**Jason Mascarenas** – the western heritage is really important, an intricate part of Palm Springs history; I'm a member of Desert Riders, established here in 1930, and still very active; also very involved with trail development and maintaining all the trails that tourists, residents and everybody else enjoys; I'm a member of Los Compadres Club and Stables, they were established in 1939 and very active to this day. I just want to emphasize that the western heritage is really important and any artwork or sculpture throughout the city identifies that importance to tourists, residents and the people that are part of this city.

**Owen Kieley** – 62 year resident of Palm Springs; was pleased to be able to ride with Frank Bogert on a regular basis in business and trail riding. I know this issue is off the table, but wanted to reiterate all of our western heritage artwork that started with this town and with my great-grandmother Nellie Kauffman. To think of removing any of this at any time in the future would be a great disservice to her, one of the founders of this town, along with Carl Lincoln, who some of the trails are named after here, and Earl Kaufmann, my grandfather, who another trail is named after, were very good friends with Frank Bogert. The discussion on the agenda for creating a subcommittee I believe is for finding out the price of a base for this transgender statue. I really hope that you will bring that up in future meetings so we kind of know what the citizens of the city are paying for. Even though something is given to us as a sculpture, sometimes it's cost prohibitive just like the fountain is downtown to maintain or to install in the first place. I hope you look into this very seriously and diligently before we're saddled with another white elephant like we have in the park downtown. I did leave some inquiries with you about being on a subcommittee with your commission and I have yet to receive a response back; I would like to receive a response.

**Beth Grossman** – 35 year resident; I'm a desert rider and was very familiar with Frank Bogert and rode with him for many years. The idea of taking Frank's statue from city hall and moving it to some godforsaken place way out of the way, not only will rub people like myself wrong, but those of us that have a true feeling and connection with the history of Palm Springs. He was not only known as a horseman, but there was a lot of good that he did building this community; his name is well known all over, not just Southern California, and he deserves to be there, he is history in Palm Springs and whatever it is you want to replace his statue with, why don't you consider putting it somewhere else, put it where you want to put him. People know Frank, they've come to respect Frank and they respect the culture of Palm Springs; he's history here, and it's enough of our history that is getting wiped away, it's eroding, each year I'm here I see it disintegrate a little more. I feel it's a shame because what was a wonderful community is still wonderful, but it has lost that special feeling for those of us that have been around a while and want to see Palm Springs remain what it is; it's a leader in all different aspects. I'm just putting in my two cents regarding moving that statue; it would be a great mistake. I think there will be a lot of people that feel the same way.

**Chair Sheffer** – just to clarify; we were asked by a member of the city Council to consider whether there was a better location for the Frank Bogert sculpture, it was on our agenda last month, we discussed it at length, numerous people were at last month's meeting and seven

people spoke at public comments. It is no longer under consideration so there is no need to speak for or against it because it is not on our agenda and we are not going to consider it. So, thank you for your comments, but it is not on the agenda, now or anytime in the future that I know of.

**Sharon Apfelbaum** – I came here in 1969 with a newborn baby in my arms; one of the first people I met was Frank Bogert, he was the guy who had the camera, who took pictures of the pretty girls around the little hotels; sent those pictures back to their hometowns with the caption It's January in Palm Springs, the sun is shining, there are girls around the pool don't you want to come visit this lovely place. He was the first Chamber of Commerce in our town, he was a man of many talents; he was a renaissance man. Just to let you know, when I served on city Council in the late 1980s I was the one who proposed a public arts commission, I thought it would be a fabulous idea, I still do, Palm Desert was way ahead of us then, but now we have a public arts commission and I know you'll do the right thing by associating history with art; as it's always been. Thank you.

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## Human Rights Commission - Public Comment

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Public comment was received at the April 12, 2021 regular meeting of the Human Rights Commission and the following individuals spoke on item 7A.a, citing the positive aspects of Frank Bogert's character and voiced opposition to the removal of his monument from city hall:

Susan Smith                      Sue Leferve                      Tom Kiely                      Doug Evans

Letters to the Human Rights Commission were sent to the City Clerk citing the positive aspects of Frank Bogert's character and voiced opposition to the removal the monument from city hall:

Fritz Hummel                      Tracy Conrad                      Donna Higuera  
Norm King                      Terri Milton                      Tristian Milanovich  
Doug Evans and Jackie Autry                      John Stiles                      David Christian  
Lori Russell                      David Christian

David Weiner submitted a letter in support of relocating the monument.

Public comment was received in support of moving the monument from city hall from:

Janel Hunt                      Jodi Diaz                      Ginny Foat                      David Weiner

Lilly Hanner spoke in favor of a compromise to reconceptualizing the monument.

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## Palm Springs City Council Meetings - Public Comment

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This section includes public comment made at five city council meetings, from May 17, 1989 to July 23, 2020, regarding the Frank Bogert monument:

1. July 23, 2020
2. July 18, 2020
3. July 9, 2020
4. June 25, 2020
5. May 17, 1989

### 1. City Council Regular Meeting July 23, 2020

The following individuals spoke on Item 5B, citing the positive aspects of Frank Bogert's character and voiced opposition to the removal of the monument from city hall:

David Christian	Susan Smith	Sean Wood
Courtnee Novales	Gerri Chaney	Amado Salinas II
Kitty Hayes	Mike Johnson	Bernadine Siva
Negie Bogert	Doni Hubbard	

Email and Letters received by city council citing the positive aspects of Frank Bogert's character and voiced opposition to the removal of the monument from city hall were received from:

David Christian	Donna Higuera	Rabbi Joseph Hurwitz
John Stiles	Frank Purcell	Kimberly Mason

**Edwin Ramoran**, speaking on Item 5B, spoke on the historical impacts of racism and discrimination and the need to confront the issue today; asserted that the amount of opposition to the removal of the Frank Bogert monument is evidence of white patriarchy.

### 2. City Council Special Meeting July 18, 2020

Public comments were received from fifty-three individuals. Five individuals are in support of the Bogert monument staying at city hall. Eight individuals are in favor of moving the monument. One comment was natural.

(in favor of removing the monument)



Connid Griswold	Shawinda Faveau	Ginny Foat
Deiter Crawford	Claire Jordan	David Wiener
Janel Hunt	Thomas Swope	

(in support of keeping the monument at city hall)

Abigail Winston	Dottie Wilder	David Christian
Courtnee (no last name)	James Cioffi	

Wes Rankens (neutral)

### 3. City Council Regular Meeting July 9, 2020

Email received by city council for the July 9, 2020 meeting citing the positive aspects of Frank Bogert's character and voiced opposition to the removal of the monument from city hall:

Danielle Snyder	Terri Milton	John Stiles	Ashton Gout
Lori Russell	Ashton Gout #2	Ron Gregory	Joe G Jones
Patti Davis	Paul Segal	Art Miller	Dick Oliphant
Tracy Conrad	Jenna Higuera		

Email was received in support of removing the monument from city hall from:  
Robert Julian Stone

### 4. City Council Regular Meeting June 25, 2020

Email received by city council for the June 25, 2020 meeting citing the positive aspects of Frank Bogert's character and voiced opposition to the removal of the monument from city hall: from:

Donna Higuera	David Christian	Richard Service
Judy Alexander	Regina Butin	James Cioffi
Roxann Carlton	Katherine Hough	

### 5. City Council Regular Meeting, Thursday, May 17, 1989

Public comment was made by:

**George Goldberg** commented on the proposal to place a bronze statue of the former Mayor Frank Bogert, in the front lawn of city hall (by private donation) and suggested that it would be fitting to have statues of all of the former Councilmembers. He also commented on a U.S. Supreme Court relative to other statements he made about employees; and submitted a copy to each Councilmember and the city Manager of a letter from him, published in the June issue of, "Motorhome."

## Definition of Terms used in This Report and Core Concepts

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Even the most frequently used words in any discussion on race can easily cause confusion, which can lead to controversy and hostility. This glossary is included to help enhance one’s knowledge or to introduce a concept for the first time. Understanding that people are at different stages of learning, experiencing and addressing racial prejudice and racism, this glossary is intended as a resource.

Establishing a shared language to present data, describe conditions and outcomes and identify root causes of inequities serves an important function. A shared understanding of the most common terms is essential.<sup>172</sup> A common language creates a narrative that makes it easier to communicate the commitment to racial equity, both internally and externally, and it creates a platform for coordinated work toward equitable outcomes.<sup>173</sup>

Bigotry	Intolerant prejudice that glorifies one's own group and denigrates members of other groups. <sup>174</sup>
Collusion	When people act to perpetuate oppression or prevent others from working to eliminate oppression. Example: Able-bodied people who object to strategies for making buildings accessible because of the expense. <sup>175</sup>
Cultural Racism	Cultural racism refers to representations, messages and stories conveying the idea that behaviors and values associated with white people or “whiteness” are automatically “better” or more “normal” than those associated with other racially defined groups. Cultural racism shows up in advertising, movies, history books, definitions of patriotism, and in policies and laws. Cultural racism is also a powerful force in maintaining systems of internalized supremacy and internalized racism. It does that by influencing collective beliefs about what constitutes appropriate behavior, what is seen as beautiful, and the value placed on various forms of expression. All of these cultural norms and values in the U.S. have explicitly or implicitly racialized ideals and assumptions (for example, what “nude” means as a color, which facial features and body types are considered beautiful, which child-rearing practices are considered appropriate.) <sup>176</sup>

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<sup>172</sup> MP Associates, Center for Assessment and Policy Development, and World Trust Educational Services, December 2020; Racial Equity Tools, <https://www.racialequitytools.org/glossary>

<sup>173</sup> Annie E. Casey Foundation, August 24, 2020, Equity vs. Equality and Other Racial Justice Definitions, <https://www.aecf.org/blog/racial-justice-definitions>; The Annie E. Casey Foundation is based in Baltimore and their focus is to advance research and solutions to overcome the barriers to success, help communities demonstrate what works and influence decision makers to invest in strategies based on solid evidence.

<sup>174</sup> National Conference for Community and Justice, St. Louis Region. Unpublished handout used in the Dismantling Racism Institute program.

<sup>175</sup> *Teaching for Diversity and Social Justice: A Sourcebook*, edited by Maurianne Adams, Lee Anne Bell, and Pat Griffin (Routledge, 1997).

<sup>176</sup> RacialEquityTools.org, “FUNDAMENTALS / Core Concepts / Racism”

Discrimination	<p>1. The unequal treatment of members of various groups based on race, gender, social class, sexual orientation, physical ability, religion, and other categories.</p> <p>2. [In the United States] the law makes it illegal to discriminate against someone on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. The law also requires that employers reasonably accommodate applicants' and employees' sincerely held religious practices, unless doing so would impose an undue hardship on the operation of the employer's business.<sup>177</sup></p>
Equity	Equity is defined as “the state, quality or ideal of being just, impartial and fair.” The concept of equity is synonymous with fairness and justice. It is helpful to think of equity as not simply a desired state of affairs or a lofty value. To achieve and sustain equity, it needs to be thought of as a structural and systemic concept.
Equity vs. Equality	Equity involves trying to understand and give people what they need to enjoy full, healthy lives. Equality, in contrast, aims to ensure that everyone gets the same things in order to enjoy full, healthy lives. Like equity, equality aims to promote fairness and justice, but it can only work if everyone starts from the same place and needs the same things.
Implicit Bias	Also known as unconscious or hidden bias, implicit biases are negative associations that people unknowingly hold. They are expressed automatically, without conscious awareness. Many studies have indicated that implicit biases affect individuals' attitudes and actions, thus creating real-world implications, even though individuals may not even be aware that those biases exist within themselves. Notably, implicit biases have been shown to trump individuals' stated commitments to equality and fairness, thereby producing behavior that diverges from the explicit attitudes that many people profess. The Implicit Association Test (IAT) is often used to measure implicit biases with regard to race, gender, sexual orientation, age, religion, and other topics. <sup>178</sup>
Inclusion	Inclusion is the action or state of including or of being included within a group or structure. More than simply diversity and numerical representation, inclusion involves authentic and empowered participation and a true sense of belonging.
Inclusion	Authentically bringing traditionally excluded individuals and/or groups into processes, activities, and decision/policy making in a way that shares power.
Individual Racism	Individual racism refers to the beliefs, attitudes, and actions of individuals that support or perpetuate racism. Individual racism can be deliberate, or the individual may act to perpetuate or support racism without knowing that is what he or she is doing.

<sup>177</sup> 1. Institute for Democratic Renewal and Project Change Anti-Racism Initiative, [A Community Builder's Tool Kit](#), Appendix I (2000); 2. U.S. Equal Employment Opportunity Commission, “[Laws Enforced by EEOC](#)” (accessed 28 June 2013).

<sup>178</sup> Cheryl Staats, [State of the Science: Implicit Bias Review 2013](#), Kirwan Institute, The Ohio State University; See also RacialEquityTools.org, “[ACT / Communicating /Implicit Bias](#)”

	<p>Examples:</p> <ul style="list-style-type: none"> <li>• Telling a racist joke, using a racial epithet, or believing in the inherent superiority of whites over other groups.</li> <li>• Avoiding people of color whom you do not know personally, but not whites whom you do not know personally (e.g., white people crossing the street to avoid a group of Latino/a young people; locking their doors when they see African American families sitting on their doorsteps in a city neighborhood; or not hiring a person of color because “something doesn’t feel right”).</li> <li>• Accepting things as they are (a form of collusion).<sup>179</sup></li> </ul>
Institutional Racism	<p>Institutional racism is racial inequity within institutions and systems of power, such as places of employment, government agencies and social services. It can take the form of unfair policies and practices, discriminatory treatment and inequitable opportunities and outcomes.</p> <p>A school system that concentrates people of color in the most overcrowded and under-resourced schools with the least qualified teachers compared to the educational opportunities of white students is an example of institutional racism.</p>
Institutional Segregation	<p>Segregation perpetuated by institutions is an institutionalized form of social distance expressed in physical separation based on discriminatory treatment, unfair policies and inequitable opportunities and impacts, based on race.<sup>180</sup> This normalization and legitimization routinely advantages whites while producing cumulative and chronic adverse outcomes for people of color.<sup>181</sup></p>
Internalized Racism	<p>Internalized racism describes the private racial beliefs held by and within individuals. The way we absorb social messages about race and adopt them as personal beliefs, biases and prejudices are all within the realm of internalized racism.</p> <p>For people of color, internalized oppression can involve believing in negative messages about oneself or one’s racial group. For white people, internalized privilege can involve feeling a sense of superiority and entitlement, or holding negative beliefs about people of color.</p>
Interpersonal Racism	<p>Interpersonal racism is how our private beliefs about race become public when we interact with others. When we act upon our prejudices or unconscious bias — whether intentionally, visibly, verbally or not — we engage in interpersonal racism. Interpersonal racism also can be willful and overt, taking the form of bigotry, hate speech or racial violence.</p>
Microaggression	<p>The everyday verbal, nonverbal, and environmental slights, snubs, or insults, whether intentional or unintentional, which communicate hostile, derogatory, or negative messages to target persons based solely upon their marginalized group membership.<sup>182</sup></p>

<sup>179</sup> [Flipping the Script: White Privilege and Community Building](#) by Maggie Potapchuk, Sally Leiderman, Donna Bivens, and Barbara Major (2005).

<sup>180</sup> encyclopedia.com

<sup>181</sup> Structural Racism By Keith Lawrence and Terry Keleher (2005).

<sup>182</sup> Derald Wing Sue, PhD, [“Microaggressions: More than Just Race”](#) (*Psychology Today*, 2010).

Multicultural Competency	A process of learning about and becoming allies with people from other cultures, thereby broadening our own understanding and ability to participate in a multicultural process. The key element to becoming more culturally competent is respect for the ways that others live in and organize the world and an openness to learn from them. <sup>183</sup>
Oppression	<p>1. Systemic devaluing, undermining, marginalizing, and disadvantaging of certain social identities in contrast to the privileged norm; when some people are denied something of value, while others have ready access.</p> <p>2. The systematic subjugation of one social group by a more powerful social group for the social, economic, and political benefit of the more powerful social group. Rita Hardiman and Bailey Jackson state that oppression exists when the following 4 conditions are found:</p> <ul style="list-style-type: none"> <li>• the oppressor group has the power to define reality for themselves and others,</li> <li>• the target groups take in and internalize the negative messages about them and end up cooperating with the oppressors (thinking and acting like them),</li> <li>• genocide, harassment, and discrimination are systematic and institutionalized, so that individuals are not necessary to keep it going, and</li> <li>• members of both the oppressor and target groups are socialized to play their roles as normal and correct.</li> </ul> <p>Oppression = Power + Prejudice<sup>184</sup></p> <p>3. Oppressor, Oppressed: An oppressor is one who uses her/his power to dominate another, or who refuses to use her/his power to challenge that domination. An oppressed is one who is dominated by an oppressor, and by those who consent with their silence. Oppression is the power and the effects of domination. In the U.S., there are many forms of (often) interlocking oppressions: racism, sexism, classism, heterosexism, anti-semitism, ablism, ageism, etc.</p>
People of Color	Often the preferred collective term for referring to non-White racial groups. Racial justice advocates have been using the term “people of color” (not to be confused with the pejorative “colored people”) since the late 1970s as an inclusive and unifying frame across different racial groups that are not White, to address racial inequities. While “people of color” can be a politically useful term, and describes people with their own attributes (as opposed to what they are not, e.g., “non-White”), it is also important whenever possible to identify people through their own racial/ethnic group, as each has its own distinct experience and meaning and may be more appropriate. <sup>185</sup>
Prejudice	A pre-judgment or unjustifiable, and usually negative, attitude of one type of individual or groups toward another group and its members. Such negative attitudes are typically based on unsupported generalizations (or stereotypes)

<sup>183</sup> Paul Kivel, “[Multicultural Competence](#)” (2007). See also RacialEquityTools.org, “[ACT / Strategies / Multi cultural Competency](#)”

<sup>184</sup> 1. WPC Glossary from [14<sup>th</sup> Annual White Privilege Conference Handbook](#) (2013); 2. “[What Is Racism?](#)” – Dismantling Racism Works (dRworks) [web workbook](#); 3. Chronic Disparity: Strong and Pervasive Evidence of Racial Inequalities Poverty Outcomes Structural Racism By Keith Lawrence and Terry Keleher, 2004.

<sup>185</sup> Race Forward, “[Race Reporting Guide](#)” (2015).

	that deny the right of individual members of certain groups to be recognized and treated as individuals with individual characteristics. <sup>186</sup>
Privilege	Unearned social power accorded by the formal and informal institutions of society to ALL members of a dominant group (e.g. white privilege, male privilege, etc.). Privilege is usually invisible to those who have it because we're taught not to see it, but nevertheless it puts them at an advantage over those who do not have it. <sup>187</sup>
Race	Race is a socially constructed system of categorizing humans largely based on observable physical features (phenotypes), such as skin color, and on ancestry. There is no scientific basis for or discernible distinction between racial categories. The ideology of race has become embedded in our identities, institutions and culture and is used as a basis for discrimination and domination.
Racial Justice	1. The systematic fair treatment of people of all races, resulting in equitable opportunities and outcomes for all. Racial justice—or racial equity—goes beyond “anti-racism.” It is not just the absence of discrimination and inequities, but also the presence of deliberate systems and supports to achieve and sustain racial equity through proactive and preventative measures.  2. Operationalizing racial justice means reimagining and co-creating a just and liberated world and includes: <ul style="list-style-type: none"> <li>• understanding the history of racism and the system of white supremacy and addressing past harms,</li> <li>• working in right relationship and accountability in an ecosystem (an issue, sector, or community ecosystem) for collective change,</li> <li>• implementing interventions that use an intersectional analysis and that impact multiple systems,</li> <li>• centering Blackness and building community, cultural, economic, and political power of Black, Indigenous, and other People of Color (BIPOC), and</li> <li>• applying the practice of love along with disruption and resistance to the status quo.<sup>188</sup></li> </ul>
Racial Privilege and Racial Oppression	Like two sides of the same coin, racial privilege describes race-based advantages and preferential treatment based on skin color, while racial oppression refers to race-based disadvantages, discrimination and exploitation based on skin color.
Racism	1. Racism is race prejudice plus power. 2. Racism is prejudice, discrimination, or antagonism directed against a person or people on the basis of their membership in a particular racial or ethnic group, typically one that is a minority or marginalized.

<sup>186</sup> Institute for Democratic Renewal and Project Change Anti-Racism Initiative, [A Community Builder's Tool Kit](#), Appendix I (2000).

<sup>187</sup> Colours of Resistance Archive, “Privilege” (accessed 28 June 2013).

<sup>188</sup> 1. Race Forward, “Race Reporting Guide” (2015); 2. Maggie Potapchuk, “Operationalizing Racial Justice in Non-Profit Organizations” (MP Associates, 2020). This definition is based on and expanded from the one described in Rinku Sen and Lori Villarosa, “Grantmaking with a Racial Justice Lens: A Practical Guide” (Philanthropic Initiative for Racial Equity, 2019).

	The concept of racism is widely thought of as simply personal prejudice, but in fact, it is a complex system of racial hierarchies and inequities. At the micro level of racism, or individual level, are internalized and interpersonal racism. At the macro level of racism, we look beyond the individuals to the broader dynamics, including institutional and structural racism. <sup>189</sup>
Racist	One who is supporting a racist policy through their actions or interaction or expressing a racist idea. <sup>190</sup>
Reparations	States have a legal duty to acknowledge and address widespread or systematic human rights violations, in cases where the state caused the violations or did not seriously try to prevent them. Reparations initiatives seek to address the harms caused by these violations. They can take the form of compensating for the losses suffered, which helps overcome some of the consequences of abuse. They can also be future oriented— providing rehabilitation and a better life to victims—and help to change the underlying causes of abuse. Reparations publicly affirm that victims are rights-holders entitled to redress. <sup>191</sup>
Reverse Racism	A term created and used by white people to deny their white privilege. Those in denial use the term reverse racism to refer to hostile behavior by people of color toward whites, and to affirmative action policies, which allegedly give ‘preferential treatment’ to people of color over whites. In the U.S., there is no such thing as “reverse racism.” <sup>192</sup>
Structural Racism	Structural racism (or structural racialization) is the racial bias across institutions and society. It describes the cumulative and compounding effects of an array of factors that systematically privilege white people and disadvantage people of color.  Since the word “racism” often is understood as a conscious belief, “racialization” may be a better way to describe a process that does not require intentionality.
Systemic Equity	Systemic equity is a complex combination of interrelated elements consciously designed to create, support and sustain social justice. It is a dynamic process that reinforces and replicates equitable ideas, power, resources, strategies, conditions, habits and outcomes.
Systemic Racialization	Systemic racialization describes a dynamic system that produces and replicates racial ideologies, identities and inequities. Systemic racialization is the well-institutionalized pattern of discrimination that cuts across major political, economic and social organizations in a society.

<sup>189</sup>. 1. People’s Institute; 2. Annie E. Casey Foundation, August 24, 2020, Equity vs. Equality and Other Racial Justice Definitions.

<sup>190</sup> Ibram X. Kendi, *How To Be An Antiracist*, Random House, 2019.

<sup>191</sup> International Center for Transitional Justice. See also RacialEquityTools.org, “PLAN / Issues / Reparations”

<sup>192</sup> *Chronic Disparity: Strong and Pervasive Evidence of Racial Inequalities Poverty Outcomes Structural Racism* By Keith Lawrence and Terry Keleher, 2004.

	Public attention to racism is generally focused on the symptoms (such as a racist slur or the <a href="#">adultification of Black women and girls</a> by an individual or group) rather than the system of racial inequity.
Systemic Racism	Refers to the structures and institutions in society that serve to oppress people of color, can take a toll on mental health.
White Privilege	<p>1. Refers to the unquestioned and unearned set of advantages, entitlements, benefits and choices bestowed on people solely because they are white. Generally white people who experience such privilege do so without being conscious of it.</p> <p>2. Structural White Privilege: A system of white domination that creates and maintains belief systems that make current racial advantages and disadvantages seem normal. The system includes powerful incentives for maintaining white privilege and its consequences, and powerful negative consequences for trying to interrupt white privilege or reduce its consequences in meaningful ways. The system includes internal and external manifestations at the individual, interpersonal, cultural and institutional levels.</p> <p>The accumulated and interrelated advantages and disadvantages of white privilege that are reflected in racial/ethnic inequities in life-expectancy and other health outcomes, income and wealth and other outcomes, in part through different access to opportunities and resources. These differences are maintained in part by denying that these advantages and disadvantages exist at the structural, institutional, cultural, interpersonal and individual levels and by refusing to redress them or eliminate the systems, policies, practices, cultural norms and other behaviors and assumptions that maintain them.</p> <p>Interpersonal White Privilege: Behavior between people that consciously or unconsciously reflects white superiority or entitlement.</p> <p>Cultural White Privilege: A set of dominant cultural assumptions about what is good, normal or appropriate that reflects Western European white world views and dismisses or demonizes other worldviews.</p> <p>Institutional White Privilege: Policies, practices and behaviors of institutions -- such as schools, banks, non-profits or the Supreme Court -- that have the effect of maintaining or increasing accumulated advantages for those groups currently defined as white, and maintaining or increasing disadvantages for those racial or ethnic groups not defined as white. The ability of institutions to survive and thrive even when their policies, practices and behaviors maintain, expand or fail to redress accumulated disadvantages and/or inequitable outcomes for people of color.<sup>193</sup></p>
Willful ignorance	A decision made in bad faith to avoid becoming informed about something so as to avoid having to make undesirable decisions that such information might prompt.

<sup>193</sup> 1. Peggy McIntosh, "White Privilege and Male Privilege: A Personal Account of Coming to See Correspondences Through Work in Women Studies" (1988); 2. Transforming White Privilege: A 21st Century Leadership Capacity, CAPD, MP Associates, World Trust Educational Services (2012).



## Timeline

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1920	Palm Springs gained fame as an exclusive resort in the 1920s. Thereafter, the city elite became consumed with maintaining its reputation on one hand and demonstrating cultural racism on the other. Because public policies in Palm Springs increasingly reflected the interests of local business, real estate, and village elites, social engineering and control over land use became the driving forces behind the city's political economy.
1945	April 1945, August Kettmann, served as Chief of Police in Palm Springs from April 1945 to June 1964 with a year out in 1953, and as a conservator from June 1965 to at least May 31, 1968, for Ray Leonard Patencio.
1951	Resolution 3172 adopted by city council authorizing and directing that City Manager be authorized and directed to bring parties together and work out the housing problem for colored people at either Lineau Village or the North Calle Encilia facilities.
1951	December 19 - Resolution 3307 adopted by city council to secure deferment of all evictions on Indian Land in Section 14 until May 1, 1952.
1952	July 9, 1952 - Resolution 3338 established a committee of five (5) local businessmen to look into the problem of housing for a considerable number of people from Section 14, investigate whether housing should be public or private, report back if project could be private capital or under the auspices of the Federal Housing Authority.
1953	In 1953, substandard dwellings were ordered demolished unless they could be brought up to state health and sanitation standards; the deadline was repeatedly pushed back and standards lowered.
1953	September 18, 1953 - City Council meeting held discussion on existing conditions in Section 14. The week of October 1-6, 1953, is designated as Clean-up Week, when all residents, service clubs and civic groups are urged to cooperate in program for trash removal from individual properties and general citywide clean-up program. <sup>194</sup>

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<sup>194</sup> City of Palm Springs City Council minutes September 18, 1953.

	1953	October 6 - Resolution 3900 passed and a governing board was established to conduct hearings required by the State Housing Act with regard to procedures for the abatement of nuisances.
	1953	June 30, 1953 - Resolution 3808 created moratorium on enforcement of substandard buildings on Section 14 through January 1, 1954.
	1954	September 18, 1953 - Resolution 3891 extends moratorium of enforcement of substandard buildings on Section 14 from January 1, 1954 through June 1, 1954.
	1954	In 1954, the city removed 17 trailers and piles of trash. The next year, it targeted abandoned cars.
	1956	In 1956, the city fire department burned 10 condemned trailers. A firefighter threw a match onto the site and it began to burn, flames leaping into the sky as spectators gathered to watch the early-morning blaze, according to a Desert Sun report from that day. It took just seven minutes for the homes to be demolished.
	1956	Of \$10.87 million in receipts to the 84 estates from 1956 to 1967, the report said 37% to 44% was paid to guardians, conservators, or their attorneys under supervision of the Indo Branch of Riverside County Superior Court.
	1956	The Desert Sun's publisher wrote in an editorial in 1956, "The mess is indescribable... Slums? This is even worse."
<b>Frank Bogert's Term as Mayor</b>	1958	Frank Bogert was elected to city council and then appointed mayor from April 1958 to January 1966. He went on to become the city's first elected mayor, serving a second term from 1982 to 1988. <sup>195</sup>
	1959	The Agua Calientes are perhaps the richest Indians in America owning 27,000 acres of land valued at \$50 million allotted to them by the federal government in 1959.
	1960	Frank Bogert, realtor and mayor of Palm Springs, served as conservator for the Estate of Edmund Peter Siva from June 8, 1960, until July 15, 1963, when the conservatorship was terminated.
	1961	By 1961, the population of Section 14 had decreased from 5,000 in 1948 to around 1,00 residents. Clearance activities continued during the early 1960s.

<sup>195</sup> The Desert Sun (Palm Springs, California) · Thu, Mar 22, 1990, Bogert statue to be unveiled on March 31

1961	City officials burned down the first homes in 1961 without first notifying the residents, city leaders had considered their legal liabilities. <sup>196</sup>
1961	Jan-July An estimated 800 people evacuated Section 14 within the first six months of 1961.
1961	March. - Resolution 6213 requested the Federal Housing Administration to issue certificates which would make the people of Section 14 eligible for relocation assistance under Section 221 of the Housing Code.
1961	April, - Resolution 6291 shows the City Council directing city administrations to make back surveys of Section 14 to support the requests for assistance as required by the federal agency. Two weeks later, on April 17, the Building Department reported there were 271 occupied dwellings and 20 vacant houses in the southwest quarter of Section 14.
1961	June 12, - Resolution 6419 ordered the appointment of a seven-member Citizens' Committee for Section 14 to work on the housing problems. One of the members was Rev. Jeff Rollins. Later that month, Richard Mitchell, special assistant to the Regional Administrator of the Housing and Home Financing Administration of the federal government, appeared before the City Council to explain what had to be done by the city in order to qualify the 221 housing assistance program.
1961	July 6, Attorney Thurman negotiates purchase of land on the north edge of the city for low cost FHA housing. He did not identify who the principles in the project were.
1961	July 10, - Resolution 6454 saw the council approve a program for community improvement, which was one of the requirements of the HHFA.
1961	In September 1961 local officials announced that the FHA had certified that Palm Springs would receive federal monies to rehouse displaced residents.
1961	September - According to a city manager's report, in 1961 "all people living in Sec. 14 were notified of their eligibility to apply for [these] relocation grants but there is no record of anyone receiving money." <sup>197</sup>
1962	February 19 City authorizes the demolition and razing of homes and structures on the Agua Caliente Reservation in Section 14.

<sup>196</sup> City of Palm Springs City Council minutes, June 12, 1961, pp. 472 – 473.

<sup>197</sup> Desert Sun, September 8, 1961, p. 6, Housing Program OK: Government Certifies Funding Plan, As cited in Kray, 2004, p. 113.

1962	February 19, - Resolution 6781 had the council requesting the Bureau of Indian Affairs and the Conservators / Guardians to formulate a program to remove debris from Section 14.
1962	October 25 - Prior to leading a city sponsored lobby trip to Washington D.C., to advance 99-year leases, on October 25, (California Secretary of State registry of corporations), Frank Bogert incorporated the Palm Springs resort development business <sup>198</sup> Cal-A-Nev as a California corporation for resort development in Arizona, California, and Nevada.
1962	November 10 - As president of Cal-A-Nev, Frank Bogert signed a \$21 million resort development, 75-year lease for 13,000 acres of Mojave Indian land on the Colorado River. <sup>199</sup>  Representing Cal-A-Nev at the meeting were Mr. Frank Bogert, Mayor of Palm Springs and manager and developer of resort properties in that city and Mr. Paul King of Encino who represents syndicated New York money. The Secretary-Treasurer of the corporation, Mr. Edward Furer. <sup>200</sup> The lease was written by their Attorney Mr. Raymond C. Simpson (also tribal attorney for Agua Caliente Tribe).
1962	The lease is with the Mojave Indians, and one of the biggest ever made in Indian lease history. <sup>201</sup>  The lease was signed with a promise by Congressman Harry R. Sheppard that a 99-year leasing right bill will be passed for them by February, 1963.
1963	Having a vested interest in the Equalization Act as the mayor, a conservator, manager and developer of resort properties, Mayor Frank Bogert and Ted McKinney, vice mayor and chairman of the mayor's committee on Section 14, and a member of the Tribal Planning Commission, from the 1960s to 1990s, went to Washington D.C. in 1963 to lobby for approval of 99-year leases. <sup>202</sup>
1964	1964 - 1964 was the first year citywide vote occurred to elect the mayor and entire city council.
1964	The City of Palm Springs approached the conservators (appointed by Judge Hilton McCabe) with a plan to raze Section 14.

<sup>198</sup> California Secretary of State registry of corporations

<sup>199</sup> The Needles Desert Star (Needles, California), Thu, November 15, 1962, Mohaves Sign Land Lease.

<sup>200</sup> The Needles Desert Star (Needles, California), Thu, November 15, 1962, Mohaves Sign Land Lease

<sup>201</sup> Desert Sun, Volume 38, Number 118, 19 December 1964 — Seven Years of Effort Precede Signing of Mojave Indian Lease

<sup>202</sup> The Desert Sun, October 14, 1991, "Indians take command of destiny," Ron Prichard

1964	Sept. 21, - Resolution 8168 was a council request to the Agua Caliente Indian Tribal Council, the Bureau of Indian Affairs, the Indian allottees, and the Conservators - Guardians to aid the city in cleaning up Section 14.
1964	1964 and 1965, local officials with questionable authority lined up bulldozers, leveled several sections and burned the wreckage. The residents cried foul, and the state attorney general harshly criticized the city for moving its mostly minority workers, often without notice.
1965	February 8, the City council requested the City Manager to study all feasible means for cleaning up Section 14.
1965	Oct 4, the City Council declared Section 14 a public nuisance and authorized the Fire Department to burn debris.
1965	<p>Oct 18, 1965 to February 24, 1966, the bureau conducted 410 inspections and reinspections of structures and the area; 152 notifications had been sent to either conservators, guardians, allottees, or occupants.</p> <p>The report detailed demolitions of structures totaled 155, including 43 which had been abandoned, and 112 which had been vacated; and the same number 155 of controlled burnings of structures, trash, litter, and rubbish had been conducted.<sup>203</sup></p>
1965	October 18, At the city council meeting, City Manager Frank Aleshire reported on the controlled burn to city councilmen at a discussion session toward the end of the regular meeting. Mayor Frank Bogert said he felt that in some instances the city cleanup operations were lagging. Both Councilmen George Beebe and Edgar McCoubrey concurred, asking for a speedup in cleaning operations. Particularly, they added, in the Indian-owned land of Section 14. <sup>204</sup>
1965	Toward the end of (1965 and) Bogert's tenure in 1966, the city demolished, burned and cleaned up approximately 200 dwellings and structures in a blighted part of town owned by the Agua Caliente Band of Cahuilla Indians.
1966	By 1966 with only a few months remaining in Mayor Bogert's term, the "city beautiful" clearance campaign was a triumphant success. Local elites realized their dream by eliminating downtown residential decay, securing racial homogeneity, and purging the city of its undesirables, thus voiding the city's obligation to construct low-cost housing. Although the city's people of color protested their

<sup>203</sup> The Desert Sun, November 21, 1968, "The Section 14 Story - VIII, Indian Bureau's Local Agent Recommends Cleanup Support." Al Tostado

<sup>204</sup> The Desert Sun, October 19, 1965, "Up in Smoke Go More Section 14 Buildings"

		exclusion and disenfranchisement, their voices were silenced by the city's bulldozer that razed their homes and broadcast their expulsion from the city. After the state attorney general's report became public, the city used its high-powered public relations machine to launder and sanitize the history of these events. <sup>205</sup>
	1966	July 25, 1966 the Los Angeles Office of the Attorney General opened an investigation of the Palm Springs' Section Demolition.
	1966	August 10, articles of incorporation amended for Cal-A-Nev.
	1966	December after a citywide election in September, the city was authorized to annex the tract known as Highland Estates. The neighborhood was officially welcomed to the Palm Springs family in December 1966.
	1967	February 27, 1967 - the city approved Resolution 8872 to accept \$5,000 from the Bureau of Indian Affairs to further "clean up debris and structures on this property, including demolition of structures, controlled burning and removal and hauling of all debris after demolition and controlled burning." <sup>206</sup>
	1967	May 1967, when Stewart L. Udall, U.S. Secretary of Interior announced that an investigation of the matter would be made, he appointed a task force to operate locally with Mr. Robert Cox as Chairman.
	1968	March 27, Palm Springs Task Force report of investigation submitted to the Secretary of the Interior March 27, 1968
	1968	Frank Bogert Found Guilty of Fee-splitting: "Actions Improper." U.S. Department of the Interior Finds Actions Improper Under California Law.
	1968	April 2 - Secretary of Interior informs the House Interior and Insular Affairs Committee, House of Representatives, Washington, D.C., the principal conclusion of the Palm Springs Task Force, "Is that the present guardian-conservatorship system has been intolerably costly to the Indians in both human and economic terms and that it must be replaced or radically revised."
	1968 1968	May 31, 1968, Department of Justice, Office of the California Attorney General, Letter to Chief Deputy Attorney General, Palm Springs Section 14 Demolition.
		May 31 - investigation by the state attorney general's office said city crews acted without observing proper eviction procedures. The

<sup>205</sup> R. M. Krah, "The Path to Paradise," Pacific Historical Review, Vol. 73, No. 1 (February 2004), pp. 85-126, University of California Press.

<sup>206</sup> City of Palm Springs Official Records, February, 27, 1967, Resolution No. 8872.

		report called it “a classic study in civic disregard for the rights and feelings of minority citizens.” <sup>207</sup>
		Department of Justice, Office of the California Attorney General’s report, “Palm Springs, Section 14 Demolition.” The report charges homes belonging to minority residents of Section 14 “were destroyed by a city-engineered holocaust.” <sup>208</sup>
		May 31, 1968, Hearing in Palm Springs before the subcommittee on Indian affairs of the committee on interior and insular affairs House of Representatives.
	1968	A probe into the “slum clearing” by the Department of the Interior during Frank Bogert’s last year in office in 1965-’66 laid the way for the conservator and guardian program to be abolished in 1968. <sup>209</sup>
	1968	In 1968 construction began on the 60-unit Seminole Gardens affordable apartment complex. <sup>210</sup>
	1972	By 1972, the city had 275 units of low-income housing. It was a start, but for the thousands of people who were forced off Section 14 a decade earlier, it was too little, too late. <sup>211</sup>
	1982	Bogert went on to become the city’s first elected mayor, serving a second term from 1982 to 1988. <sup>212</sup>
	1989	Members of the local Black community opposed the statue at the time it was installed in 1989 and their voice was not heard by those in power then, and up through 2020, their voice is disregarded. For the last 31 years, the statue has been an offensive symbol to the BIPOC community and it has served as a reminder of oppression a racist actions against their community.
	1990	March 31, A full-size bronze statue of Palm Springs’s most famous cowboy, Mayor Frank Bogert, sitting astride a galloping horse was commissioned and then placed in front of City Hall on March 31, 1990.
	2020	In June 2020, Palm Springs Historical Society’s associate curator, Renee Brown told News Channel 3, “There were some people who

<sup>207</sup> State of California Attorney General Report, May 31, 1968,

<sup>208</sup> Loren Miller, Jr., “Palm Springs Section 14 Demolition” (report by California Department of Justice, Office of the Attorney General), May 31, 1968

<sup>209</sup> Desert Sun, December 12, 2015, Section 14 held Bittersweet Palm Springs History, Renee Brown.

<sup>210</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

<sup>211</sup> Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy.

<sup>212</sup> The Desert Sun (Palm Springs, California) · Thu, Mar 22, 1990, Bogert statue to be unveiled on March

		went to school in the morning and when they came home their houses were gone." <sup>213</sup>
	2020	July 18, Palm Springs City Council Meeting, held a Listening Session on July 18, 2020, 11:00 A.M. The Unofficial Transcript includes a majority of comments in favor of moving the Bogert monument.
	2020	November 7, Brothers of the Desert - On November 7, 2020, the organization passed a resolution in support of moving the statue of Frank Bogert from its placement on the Palm Springs City Hall campus.
	2021	In a January, 2001 article in the Los Angeles Times, Joseph Brown, a youth coach and counselor at the Palm Springs recreation department, "said the [Section 14] raising has had a lasting impact: African American kids find out about Section 14 and they think nobody cares." <sup>214</sup>
	2021	March 8 - Human Right Commission passes resolution apologizing for the city's role in razing Section 14.
	2021	April 12 Human Rights Commission acts on moving the Frank Bogart monument and passes a resolution calling for city council to have it moved.

<sup>213</sup> News Channel 3, [KESQ.com](https://www.kesq.com), June 24, 2020, Petition to remove Frank Bogert's statue; Palm Springs Historical Society and Jack Jones, friend of Bogert respond, [Caitlin Thropay](#).

<sup>214</sup> Los Angeles Times, January 18, 2001, Reviving a Resort's Racial Pain, Terence Monmaney.



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## APPENDIX E

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### Attachments

- A. The Desert Sun, March 19, 2012, In His Own Words, Q&A with tribal leader reveals much about Agua Caliente history, Milanovich's live, Desert Sun Staff.
- B. The Desert Sun, November 15, 1984, Frank Bogert: Palm Springs 'Citizen of the Year.'
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- D. U.S. Department of Justice, Office of the Los Angeles Attorney General, May 31, 1968, Palm Springs, Section 14 Demolition.
- E. Unofficial Transcript, Palm Springs City Council Meeting, Listening Session, July 18, 2020, 11:00 A.M.
- F. Human Rights Commission Resolution City of Palm Springs Apology For its Role in the Destruction of Section 14, March 8, 2021.
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FROM PAGE 1

CHAIRMAN

Living in the same type of home and resources that they had before... 70's more important than tribal members for better education, food, health and education...

QUESTION: Long before voters passed gaming legislation, your tribe actually came into its own with work your men and the rest of the tribal council did with regard to land development...

Describe your Palm Springs home. Were you in Section 11 there... they, Roman Road and Indian Canyon Drive?

Growing up, you also lived out of government-owned camps, right? Government committees most of the members did...

And how old were you when you lived in that cracker-box house?

And yet, I was young enough to expect and see the four perspectives of living in Palm Springs. But also old enough to understand some of the ramifications of living in Palm Springs...

So, it was a double-edged sword at that time growing up. Because I'd often to my mother growing up at home and with her and her associates and they would talk about doing business with the state and federal government...

You had allotments. The intent of the Dawes Act (also known as the General Allotment Act) was to divide tribal members from the tribal government to make the membership more willing to break away from the tribal government to become their own citizens...

There were 12 acres per member who was born into the tribe. The acres that one could grow crops on. Five acres for a better site, 10...

How much land was lost? We lost about 7,000 acres during that period from the original 12,000 that had been redistributed in the 1870s.

Did you get it back? No. Based on all of that, what did you learn?



Agua Caliente Tribal Council member Jeannette Prieto-Dodd, tribe member Barbara Gonzalez Lopez, Tribal Council Chairman Richard Mitrovich and tribe member Virginia Siva Gillette cut the ribbon in 2002 on the Spa Resort Casino in Rancho Mirage.

FUNERAL PLANS

Section 7, Chairman Richard Mitrovich, the 28-year-old chairman of the Agua Caliente Band of California Indians who died March 11, was as follows...

LIVING STATE When 10 a.m. to 10 p.m. today 7 a.m. to 2 p.m. Tuesday

PUBLIC REMEMBRANCE When 10 a.m. to noon Wednesday

CELEBRATION OF LIFE When 10 a.m. to 11 a.m. Wednesday

Parking: Use the lot on the corner of Avenida Road and Avenida California.

As to how we were able to do this, we had to have a lot of support from the community...

So, when you say that you do own the Spa Hotel and the casino...

That's where the tribe received its revenues.

From there, we built up sufficient reserves so we did have something to rely on. And we did the casino, essentially in 1995...

Did you get it back? No. Based on all of that, what did you learn?

TO THE CHIEF

It gave us an understanding of dealing with the outside forces, particularly by the federal government, knowing what they could do to you if you were not organized and cautious of dealing with all levels of government...

Did it help you understand that in order to get things done the way you wanted them to be done, you needed to interface with them a certain way?

Thank you, yes. That's exactly the way it was. We understood that in order to do something for ourselves, we had to use the resources we had available to us in order to shape the Indian community for our membership.

Why did you agree to be on the tribal council?

I felt I could be a benefit to the tribe. I guess because my mother was on the tribal council. It's one of those things that you have, I don't know where it came from. I want to serve, and watching, I thought I could go on and be a benefit to the community.

So, take us from when the land was holding an economic base to the decision to move into casino gaming.

I understand the land. For the most part, about 90 percent was allotted to individual members. The property that was left was the Spa Hotel, and the tribal reserves in the casino. That was almost all we had.

The tribal council was not involved in individual development or planning of altered properties or planning of other projects within the framework of the naming the tribal council established.

So, when you say that you do own the Spa Hotel and the casino...

That's where the tribe received its revenues.

TO THE CHIEF

tribes had the right to self-governance within the state based on that concept, regulatory versus prohibitions.

That's when they came up with the concept of a compact. Many tribes felt that was a violation of tribal sovereignty. But they did it anyway. It's there. It's what we live with at the present time.

Did you have a lot of support from the community?

Myself and Barbara (I own) were not necessarily inclined to agree in the claims, but he was retained in any case.

Did you really accomplish that much?

Did you call his bluff?

It was interesting. The reporter, the woman who broke the case from the Washington Post, she called us and I remember I happened to call her back, but she would never call me back.

So, when you say that you do own the Spa Hotel and the casino...

That's where the tribe received its revenues.

Did you get it back? No. Based on all of that, what did you learn?

was right. So, in the long run, I think one of the things we did learn was nobody was wrong; they just felt they were doing what they felt should be done.

Over the past decade, since gaming really got going, how do the federal, state and tribal governments...

Has there been enough of a return on investment for tribes to support that spending?

So, I don't know, and for me, the ones who are giving it, we do it because we're not sure if we're getting a benefit for the tribe in the future...

And also understand some of the mistakes are used for tribal sovereignty.

That's all part of the process. To spend money, or educational campaign, such as what Sam Hamed did...

For the compact, though, there was a lot of money that was spent. In your view, was that money well spent? Why or wasn't it?

It was a tribe that came up with the idea. It was a tribe that came up with the language of the 1975 Act.

So, you're not sure that you had to spend the dollars to educate the public to educate the public...

Did you call his bluff?

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AGUA CALIENTE INDIANS CONSERVATORSHIPS  
AND GUARDIANSHIPS



HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

ON

**H.R. 17273**

TO AMEND THE ACT OF SEPTEMBER 21, 1959 (PUBLIC LAW 86-339) RELATING TO THE RESERVATION OF THE AGUA CALIENTE BAND OF MISSION INDIANS

HEARING HELD IN  
PALM SPRINGS, CALIF., MAY 31, 1968

Serial No. 90-28

Printed for the use of the Committee on Interior and Insular Affairs



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Note: The chairman, Hon. Wayne N. Aspinall, and the ranking minority member, Hon. John P. Saylor, are ex officio members of each subcommittee.

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# CONGRESSIONAL HEARINGS ON THE AGUA CALIENTE INDIANS CONSERVATORSHIPS AND GUARDIANSHIPS

FRIDAY, MAY 31, 1968

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INDIAN AFFAIRS  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Palm Springs, Calif.*

The subcommittee met, pursuant to notice, at 9 a.m., in the council chamber, Palm Springs city hall, Hon. Ed Edmondson, presiding.

Mr. EDMONDSON. The subcommittee will come to order.

Before making my own statement on the purpose of this hearing, and the rules which will be in effect for it, I would like to yield to your very able and very distinguished Congressman from this district who is the author of the bill that is the subject matter of the hearings, my very good friend, John Tunney.

Mr. TUNNEY. Thank you, Mr. Chairman, I also, and most particularly, would like to welcome Congressman Edmondson and Congressman Burton to the 38th Congressional District and to Palm Springs. It was a particularly nice thing for them to come here today to serve as a subcommittee for the purposes of this investigation.

As somebody pointed out, in an election year, a Congressman's place usually is in his own district if it's not in Washington, D.C., and the fact that they would give up a valuable weekend and volunteer to be with us today indicates their dedication.

Congressman Edmondson is an Oklahoman who has been in the House of Representatives since 1952, which demonstrates how well he is regarded by everybody who knows him.

He is a lawyer, a Navy veteran, and a former FBI agent.

His record in Congress has been no less illustrious. He has been an assistant Democratic whip since 1953, cochairman of the Congressional Speakers Bureau in 1956 and 1962, and is a member of the Committee on Public Works and the Committee on Interior and Insular Affairs, serving as the chairman of the Subcommittee on Mines and Mining.

Congressman Burton is from Utah and has been in the House of Representatives since 1962.

I should say that he has been in the House of Representatives as a Congressman since 1962. He was there as early as 1957 as a legislative assistant and following that he was the administrative assistant to the Governor of Utah for 3 years. He is also a former college professor.

Congressman Burton is a member of the Select Committee on Small Business and the Committee on Interior and Insular Affairs.

(1)

He is an assistant Republican whip and a member of the Public Land Law Review Commission.

You will not find two Congressmen who are more highly thought of than these two Congressmen who are here today. I know them well and know them as friends and as highly thought of members of not only the Interior and Insular Affairs but also of the Congress of the United States.

Both have an extraordinary reputation for integrity and ability, and I want to thank you very much and welcome you to Palm Springs.

Mr. EDMONDSON. Jack, I was going to give you another 10 minutes as long as you have been as kind and thoughtful and complimentary as you have been.

I am sure most of you know that your own Congressman has just returned from Vietnam and I think he flew in yesterday. I know that he will have some reports of interest to the district on that subject, and I am looking forward to discussing his findings and his observations on that situation at the first opportunity myself.

On my right is the very able gentleman from Utah, who assures that this is a bipartisan hearing. He is one of the very able members of the minority in the House, and we hope he will be in the minority in the next session. My good friend, Laurence Burton from Utah.

Mr. BURTON. Thank you, Mr. Chairman. It's a real pleasure for me to have the opportunity to come back to this 38th Congressional District which is beautiful and has such a varied economy and sociology, and I want to say that I have the greatest respect for your own Congressman, Mr. Tunney. The next time I come into the district, I expect that I will be the chairman. Thank you.

Mr. EDMONDSON. I hope, Larry, you come back before that happens.

I also want to present to you the staff assistant and attorney for the Interior and Insular Affairs Committee, Mr. Lewis A. Sigler, who is on my left over here, and Jack, do you want to present your legislative assistant?

Mr. TUNNEY. Yes. I'd like to introduce my legislative assistant, Mr. Vincent Griffith, who is from my Washington office.

Mr. EDMONDSON. I want to note the presence of the executive secretary for the California State Indian Commission, Mrs. Bernice Tate, who is here, I understand, as observer on behalf of the State.

Also, I note the presence of the council for the Agua Caliente Band of Mission Indians; both the tribal council and the attorney for the tribe are here. Chairman Haley wanted me to give his personal greetings to the tribe. He remembers very fondly his last hearing out here, and regretted very much the time situation did not make it possible for him to get here and to get back to Washington for some commitments that he had personally.

It is a great pleasure for me to be here. This is my first visit to Palm Springs, and everything I have heard about it and read about it are true. It is a very beautiful place, and the hospitality of the people has been wonderful, and I hope that there will be an opportunity for me to return with more leisure at some time in the future.

It is also a great pleasure to be in the district of your very fine Congressman, and he has been pressing our committee to hold hearings on this subject for many months, and he has impressed all of us with the seriousness of this matter and the importance of congressional

attention to it. I just hope that these hearings will be constructive and profitable from the standpoint of legislative purpose.

Let me say that we are a factfinding subcommittee. We come to hear from the people who have, I think, very, very serious concern about the legislation that is pending on the subject of the modification of the guardianship and conservatorship as it relates to the Palm Springs Indians.

I personally was sitting on this subcommittee at the time that the first legislation was considered for 99-year leases and I have been following the development of various programs for full development of potential of Indian tribal resources, both human and land, for a number of years. I represent a district in which there are many Indians, and in which some of the same problems that you have here are shared by thousands of Indian citizens of Oklahoma, and so I want to say to you now that all of us represent constituents, Indian constituents. Congressman Burton has many of them in the State of Utah, and the problems of development of trust lines are not restricted to one locality in the country. There are problems that are shared all over the country, and the pursuit of the ideal approach to this problem is one that is being carried on in many parts of the United States today.

Now, let me begin this hearing by asking unanimous consent to place in the record at this point, the text of H.R. 13516, which is the bill by Congressman Tunney that has opened this series of hearings, and also the text of the later bill on the same subject introduced by Mr. Tunney. I don't know the number of that.

Mr. TUNNEY. H.R. 17273.

Mr. EDMONDSON. H.R. 17273, introduced May 14, 1968, together with the text of the departmental report on H.R. 13516. If there is no objection, these items will be made a part of the record at this point.

(The documents referred to follow :)



90TH CONGRESS  
1ST SESSION

# H. R. 13516

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 1967

Mr. TUNNEY introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

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## A BILL

To amend the Act of September 21, 1959, relating to the Palm Springs Indian Reservation.

1       *Be it enacted by the Senate and House of Representa-*  
 2       *tives of the United States of America in Congress assembled,*  
 3       That section 4 of the Act of September 21, 1959 (73 Stat.  
 4       604; 25 U.S.C. 954), is amended by inserting "(a)" be-  
 5       fore the text of the section and by adding the following new  
 6       subsections:

7       “(b) The Secretary is directed to review from time to  
 8       time all appointments of guardians and conservators for the  
 9       estates of allottees which contain property held by the United  
 10      States in trust or the income therefrom. If the Secretary  
 11      concludes that an allottee is an adult capable of handling his

1 own affairs, he shall petition the court for a termination of  
2 the appointment. If the Secretary concludes that a guardian  
3 or conservator is not acting in the best interests of an  
4 allottee, or that the estate of the allottee is endangered by  
5 actions of the guardian or conservator, he shall petition the  
6 court for the removal of the guardian or conservator and  
7 for such further relief as may be appropriate.

8 “(c) The Secretary may require any guardian or con-  
9 servator appointed in accordance with the provisions of this  
10 section to account to him for the management of the trust  
11 property contained in the estate and the income therefrom.  
12 Failure to make an accounting satisfactory to the Secretary  
13 shall be ground for removal of the guardian or conservator.

14 “(d) No guardian or conservator shall be appointed for  
15 the portion of the estate of an allottee that consists of prop-  
16 erty held by the United States in trust or the income there-  
17 from unless the appointment is requested or agreed to by  
18 the Secretary.

19 “(e) When a minor for whose estate a guardian has  
20 been appointed in accordance with the provisions of this  
21 section reaches his majority, no conservator of the portion  
22 of his estate that consists of property held by the United  
23 States in trust or the income therefrom shall be appointed

1 unless the appointment is requested or agreed to by the  
2 Secretary.

3       “(f) Nothing in this section shall preclude the Secre-  
4 tary from exercising any other authority he may have to  
5 protect the interests of the allottees.”

90TH CONGRESS  
2D SESSION

# H. R. 17273

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 1968

Mr. TUNNEY introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

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## A BILL

To amend the Act of September 21, 1959 (Public Law 86-339) relating to the Reservation of the Agua Caliente Band of Mission Indians.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled.*

3 That section 4 of the Act of September 21, 1959 (73 Stat.  
4 604; 25 C.S.C. 954; Public Law 86-339) is hereby  
5 amended in such a manner as to delete all of section 4 thereof  
6 and by inserting in lieu thereof the following:

7 “(a) The Secretary may request the appointment of a  
8 guardian of the nontrust estate of any minor Indian allottee,  
9 minor Indian devisee or minor Indian heir and any adult  
10 Indian allottee, adult Indian devisee, or adult Indian heir,

1 who in his judgment is in need of assistance in handling his  
2 affairs, but notwithstanding any such judgment by the Sec-  
3 retary the adult Indian in question shall not be denied due  
4 process of law and the burden of proving his incompetency  
5 shall be upon the Secretary. All such requests shall be made  
6 in accordance with applicable State laws. Nothing in this  
7 section shall be construed to confer any jurisdiction whatso-  
8 ever in the State or its political subdivisions over any real or  
9 personal property so long as title to such property is held by  
10 the United States in trust for the sole and exclusive use and  
11 benefit of the Agua Caliente Band of Mission Indians or their  
12 Indian devisees or Indian heirs, and the exclusive jurisdiction  
13 over such trust property shall be vested in the United States  
14 of America.

15 “(b) No guardian appointed pursuant to section (a)  
16 hereof, shall, without first obtaining the approval of the Sec-  
17 retary, participate in the management or disposition of any  
18 property, or of any interests therein, which is held in trust  
19 by the United States for a member of the band or is subject  
20 to restrictions upon alienation imposed by the laws of the  
21 United States, nor shall such guardian be entitled to receive  
22 any fee or other compensation for any services performed  
23 with respect to such property unless the approval of the Sec-  
24 retary has previously been given in the manner required pur-  
25 suant to section 85 of title 25 of the United States Code. The

1 Secretary may promulgate regulations for the implementation  
2 of this Act, and any actions taken thereunder by the Secre-  
3 tary or his duly authorized representative shall be valid and  
4 efficacious in all respects without participation or affirmation  
5 by any guardian appointed under State law when the action  
6 pertains to property to which title thereto is still held in  
7 trust by the United States.

8 “(c) The Secretary may require an accounting by any  
9 guardian appointed under State law, or by any other person  
10 or entity who has acquired custody or possession of any  
11 money or property belonging to a member of the band, and  
12 the return to the United States of such money or property  
13 which shall then be held by the United States in trust for  
14 the individual Indian concerned. If any person or entity  
15 required to do so by the Secretary fails or refuses to account  
16 for or to return any such money or property to the satisfac-  
17 tion of the Secretary, then the Secretary may cause an action  
18 to be brought in the name of the United States in the United  
19 States District Court for the Central District of California  
20 for an accounting and a return of such money and property,  
21 and for such other relief as may be appropriate, and said  
22 court is hereby granted jurisdiction to hear and determine  
23 such actions.

24 “(d) The Secretary may in his discretion suspend any  
25 direct rental payments provided for in leases executed with

1 his approval pursuant to section 415 of title 25 of the United  
2 States Code and in such event all such funds shall thereafter  
3 be paid to the Secretary or his duly authorized representa-  
4 tive, and if the Secretary believes that such funds heretofore  
5 paid directly to a guardian have been used in an unauthorized  
6 manner and can be traced, he is hereby further authorized to  
7 initiate an action in the United States District Court for the  
8 Central District of California for an accounting and recovery  
9 of such funds. All such funds and any other property hereto-  
10 fore or hereafter received by a guardian of a member of the  
11 Agua Caliente Band of Mission Indians, their Indian devisees  
12 or Indian heirs which were theretofore under the supervision  
13 and control of the Secretary of the Interior or the title to  
14 which was held in trust for such Indian by the United States,  
15 shall not thereby become divested of the supervision and  
16 control of the Secretary of the Interior nor shall the United  
17 States be relieved of its trust; and such guardian shall not  
18 sell, dispose of or otherwise encumber such funds or property  
19 without the approval of the Secretary of the Interior.

20 “(e) Trust property as herein defined is any real or  
21 personal property or any interest therein which shall include  
22 but not be limited to water rights, leases, rights-of-way, and  
23 easements so long as such property remains subject to a  
24 restriction against alienation imposed by the United States  
25 and cannot be alienated, encumbered or taxed without the

1 consent of the United States and is held for the sole use and  
2 benefit of the Agua Caliente Indians.

3 “(f) Nothing in this section shall preclude the Secretary  
4 from exercising any other authority he may have to protect  
5 the interests of the Indian allottees, Indian devisees, or  
6 Indian heirs.”



U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., May 28, 1968.

Hon. WAYNE N. ASPINALL,  
*Chairman, Committee on Interior and Insular Affairs, House of Representatives,*  
Washington, D.C.

DEAR MR. CHAIRMAN: You have requested our views on H.R. 13516, a bill "To amend the Act of September 21, 1959, relating to the Palm Springs Indian Reservation."

We recommend that H.R. 13516 be enacted in the form of the enclosed draft bill.

The 1959 Act (73 Stat. 602) provided for the granting of equalized allotments of tribal land located in and near Palm Springs, California, to all members of the Agua Caliente Band of Mission Indians living on September 21, 1959. Children born after that date received no allotments. Section 4 of the Act provides:

"The Secretary shall request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who in his judgment are in need of assistance in handling their affairs in accordance with applicable State laws before making any equalization allotment or payment to such persons."

Under this provision, guardians were appointed for all minor members of the band for whom guardians had not previously been appointed, and conservators were appointed for adult allottees considered in need of assistance in handling their affairs. These guardianships and conservatorships are administered by the Superior Court of Riverside County, California.

The Department, through a special task force, has recently completed a review of the administration of these guardianships and conservatorships, and has concluded that the system has been intolerably costly to the Indians in both human and economic terms and should be replaced or radically revised. A copy of the task force report was sent to you by letter of April 2, 1968. The task force found that more than 44 percent of the ordinary income (exclusive of proceeds from sales of land) accruing to 84 (out of a total of 92) Indian estates had been expended for administration, primarily for fees paid to fiduciaries and their attorneys. It concluded that, quite apart from consideration of how honestly or efficiently it has been administered, a system which consumes so large a part of what it produces in administrative expenses must be deemed aberrant.

The task force also found great dissatisfaction among the Indians because of the state of dependency and ignorance of their own affairs in which they are kept under the present system. Adults have little opportunity to learn to manage their own affairs. Almost routinely, upon an Indian's coming of age he is subjected to a conservatorship.

Although the Secretary of the Interior is charged by law to supervise and approve all transactions involving Indian trust property, such transactions are cited in justification of the major portion of fiduciary and attorney fees. There is considerable duplication of the proper functions of the Secretary by the fiduciaries and attorneys to the economic detriment of the Indians.

We have reviewed H.R. 13516 and a draft bill transmitted to us by counsel for the Agua Caliente Band. We are persuaded that steps stronger than those contemplated by either of these proposals should be taken. We believe that our substitute bill would provide the necessary authority to take the actions to remedy this situation.

While it is our belief that the Secretary under existing law has some of the authority which the substitute bill provides, we feel that it would be helpful to reinforce this authority by legislation which, among other reasons, would obviate doubts of title of examiners and financial institutions.

H.R. 13516 would amend section 4 of the 1959 Act by retaining its present provision, quoted above, as subsection (a) and adding subsections (b) through (f). There is no need to retain the language of the present section 4 since all allotments authorized by the 1959 Act have been made, and the provision of the section has been executed.

The new subsection (b) would direct the Secretary to review periodically the guardianships and conservatorships established for allottees whose estates contain trust property or income from trust property; to petition for termination of conservatorships for adult allottees capable of managing their own affairs; and to petition for removal of fiduciaries whose actions endanger the estates of allottees under their charge.

Subsection (c) would authorize the Secretary to request accountings from

fiduciaries appointed under section 4 of their management of trust property and income therefrom, and would request removal of those who fail to give a satisfactory accounting.

Subsection (d) would require Secretarial approval of appointments of fiduciaries for allottees whose estates contain trust property or income from trust property.

Subsection (e) would require Secretarial approval before a conservator can be appointed to administer the trust property of an Indian under guardianship, upon his coming of age.

Subsection (f) would preserve existing Secretarial authority to protect the interests of allottees.

H.R. 13516 seeks to remedy the deficiencies and abuses of the present system by interposing the Secretary of the Interior between the court-appointed fiduciaries and the Indians. Under its provisions, the Secretary could request the removal of malfeasant fiduciaries and control the appointment of future fiduciaries, but only with respect to trust lands and income therefrom and to members of the band who were allottees under the 1959 Act.

We believe that these limitations are unwise and unnecessary. When trust land is sold or leased, the proceeds, if paid over to fiduciaries rather than being retained under Secretarial control, lose their Federal trust identity. The court-appointed fiduciaries manage such proceeds and other nontrust assets. Attempting to measure or limit the powers of the Secretary to take protective action as to that portion of an Indian's estate in the hands of a fiduciary which represents proceeds from trust property would be a complex undertaking, practically and conceptually.

Moreover, the protective powers which would be granted under H.R. 13516 are all referenced to guardianships and conservatorships established under section 4 of the 1959 Act. Their exercise would thus be restricted to situations involving members of the band who were allottees under that Act, and could not be exercised on behalf of other members for whom guardianships or conservatorships may have been set up under State law outside of that Act; for example, children born after September 21, 1959, who have received trust property by devise or descent. We are convinced that the Secretary should have full control over the appointment and continuance of fiduciaries for any members of the band; that such fiduciaries should take no part in the management of trust property, except upon request by the Secretary; that the Secretary should assume control, wherever necessary, of funds of Agua Caliente Indians now under fiduciary control; and that he should, wherever necessary, control and manage, for members of the Agua Caliente Band, all their funds and property held in trust by the United States.

Our proposed bill would amend the 1959 Act by striking the present language of section 4 and substituting a new section 4 containing five subsections. As noted, the present provision of section 4 has been executed and its retention is unnecessary.

Subsection (a) of the proposed substitute bill stipulates that no guardian, conservator, or other fiduciary shall be appointed under State law for any member of the band, or continued in office, without Secretarial approval. This not only encompasses the provisions of subsections (b), (d), and (e) of H.R. 13516, but goes beyond them in that its operation is not limited to trust property and income therefrom. Moreover, this section, as do all sections of the proposal, covers not only the estates of allottees under the 1959 Act, but those of all members of the band. It will enable the Secretary to remove fiduciaries whose activities are not clearly in the best interests of the Indians; to prevent the automatic appointment of conservators for minors when they reach majority; and to control all appointments of guardians and conservators.

Subsection (b), which follows closely the provisions of the bill proposed by the band, prohibits court-appointed fiduciaries, even those serving with the approval of the Secretary, from handling trust or restricted property or from receiving fees for services in connection with such property without specific Secretarial approval. It further authorizes the Secretary to regulate the management and disposition of trust property and to provide protection for minor and incompetent members of the band without the participation of the court-appointed fiduciaries.

While we are of the view that the Secretary possesses the authority provided by this subsection—since existing laws providing for the disposition of trust property stipulate that such dispositions shall be subject to the approval of the

Secretary and made in accordance with such regulations as he shall provide—we believe it would be well to have the existence of such authority reiterated by Congress.

First, it will relieve doubts which might otherwise exist in the minds of title examiners and lending institutions that trust property may be disposed of under Secretarial regulations without the participation or affirmation of court-appointed guardians or conservators.

Second, while it would probably be possible under existing law to handle the disposition of trust property without the intervention of such guardians and conservators, and to pay the proceeds directly to the Indians concerned, their ability to function as free economic agents will be encumbered so long as they are apparently subject to court-established guardianships and conservatorships.

For example, without participation by his conservator, an Indian and the Bureau of Indian Affairs might successfully conclude a lease of some of the Indian's trust land to a third party, and require payment of rents to be made to the Bureau. The Bureau could then make the proceeds directly available to the Indian. But, because he was subject to a conservatorship under State law, the Indian's ability to utilize the money in any way involving the making of a formal contract would be greatly impaired. While he was subject to the conservatorship, it could be anticipated that any broker or banker with whom he attempted to open an account, or any merchant from whom he desired to purchase a major item of personalty, would insist that his conservator join in the transaction.

In our letter of April 2 we stated that:

"The Bureau of Indian Affairs will immediately assume sole and complete responsibility for the management of all trust properties. This means that all leases, sales and other dispositions of interests in trust lands are to be accomplished by Bureau of Indian Affairs personnel in consultation with the Indian owners and such business advisers and attorneys as may be retained, but with minimum involvement of guardians, conservators and their attorneys."

Because the Secretary is charged by law with the duty of supervising and approving transactions involving trust property, we believe that, except in situations where they can make real contributions, guardians and conservators appointed under State law should be precluded from participating in such transactions in order to relieve the Indians of the expense of such participation.

Subsection (c), proposed by both the band and the Department, authorizes the Secretary to require an accounting by court-appointed fiduciaries or by any other persons or entities having custody or possession of money or property belonging to any member of the band, and the return of such property to the United States to be held in trust for the individual Indian concerned. It provides a judicial remedy for failure to comply with these provisions. This subsection is comparable to subsection (c) of H.R. 13516, but is of broader scope. The latter is limited to trust property and income therefrom, and does not provide for return of money or property to the United States nor for a judicial remedy. The task force has found instances of faulty accounting for, and misuse of, nontrust funds. We think it would be unrealistic for Congress to limit remedies for the protection of the Agua Caliente Indians to situations involving trust property. The remedial powers granted the Secretary of this subsection are very similar to those which were provided by the Act of February 27, 1925 (43 Stat. 1008), for the protection of the Osage Indians.

Subsection (d), which has no counterpart in H.R. 13516, would confer broad power upon the Secretary to "use, advance, expend, exchange, deposit, dispose of, invest, and reinvest" money or property held in trust by the United States for individual Indians. Except for minors or incompetent adults, the consent of the Indian concerned would be required. Determinations of incompetency of adults would be made only after notice and hearing, and judicial review of such determinations would be afforded under the Administrative Procedure Act.

Present law narrowly restricts the authority of the Secretary to invest and otherwise employ trust funds of an individual Indian, even with his participation. This subsection would broaden the uses of such funds which could be made by the Indian owners and the Secretary acting together, while retaining the trust character of the funds. For example, it would permit trust agreements with financial institutions for management of funds. It would also enable the Secretary to make fiduciary arrangements for Indians in need of assistance in managing their affairs other than under State law.

Subsection (e), like subsection (f) of H.R. 13516, preserves the authority of the Secretary under any other provisions of law.

We believe the authorities given the Secretary by our proposed bill are adequate to remedy the abuses which exist under the present system and recommend its enactment.

Time has not permitted securing advice from the Bureau of the Budget as to the relationship of this report to the program of the President.

Sincerely yours,

DAVID S. BLACK,  
*Acting Secretary of the Interior.*

A BILL To amend the Act of September 21, 1959, relating to the Palm Springs Indian Reservation

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 4 of the Act of September 21, 1959 (73 Stat. 604; 25 U.S.C. 954), is amended to read as follows:

"(a) No guardian, conservator, or other fiduciary shall be appointed under State law for any member of the band, or continued in office, except with the approval of the Secretary.

"(b) No guardian, conservator, or other fiduciary, except with the approval of the Secretary, shall participate in the management or disposition of any property or interests therein, which is held in trust by the United States for a member of the band or is subject to restrictions against alienation imposed by the laws of the United States, or receive any fee or other compensation for services performed with respect to such property or interests therein. The Secretary by regulation may provide for the management and disposition of such property and interests therein, and for the protection of the members of the band who, by reason of minority or otherwise, are incompetent to manage their own affairs. Actions taken pursuant to such regulations involving the use, expenditure, investment, deposit, or disposition of such property or interests therein, or proceeds therefrom, shall be valid and efficacious in all respects without participation or affirmation by any guardian, conservator, or other fiduciary appointed under State law.

"(c) The Secretary, at any time, may require an accounting by any guardian, conservator, or other fiduciary appointed under State law, or by any other person or entity who has custody or possession of any money or property belonging to a member of the band, and the return to the United States of such money or property. Any money or property recovered from any such guardian, conservator, fiduciary, or other person or entity shall be held by the United States in trust for the individual Indian concerned. If any person or entity required to do so by the Secretary fails or refuses to account for or to return any such money or property to the satisfaction of the Secretary, he may cause an action to be brought in the name of the United States in the United States District Court for the Central District of California for an accounting and return of such money and property, and for such other relief as may be appropriate, and said court is hereby granted jurisdiction to hear and determine such actions.

"(d) Under such regulations as he shall provide, and with the consent of the individual Indian concerned, unless the Secretary determines such Indian to be incompetent by reason of minority or otherwise, in which case such consent shall not be required, the Secretary, for the benefit of the individual Indian concerned, may use, advance, expend, exchange, deposit, dispose of, invest, and reinvest, in any manner and for any purpose, any money or other property held by the United States in trust for such Indian. The Secretary shall make no determination that an adult Indian is incompetent except after accordng him an opportunity to be heard upon reasonable notice. A person aggrieved by a determination of incompetency made by the Secretary shall be entitled to judicial review of such determination in accordance with 5 U.S.C. § 701-706.

"(e) Nothing herein shall be deemed to limit any authority possessed by the Secretary under any other provisions of law."

Mr. EDMONDSON. I also want to make a part of the record, if there is no objection, the Secretary's letter transmitting the task force report, the task force report itself, and the following exhibits from the task force report: Exhibit 1, which is a history of tribal affairs and background with regard to the subject matter of this legislation; exhibit 2, which is correspondence between the Committee on Government

Operations and the Department of the Interior on this same subject; exhibit 5, which is the memorandum of the Solicitor on this same subject; together with such other exhibits as subsequently reviewed and found to be necessary and appropriate. At this point, is there any objection? There is none, and without objection, it is so ordered.

(The documents referred to follow:)

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C. April 2, 1968.

HON. WAYNE N. ASPINALL,  
*Chairman, House Interior and Insular Affairs Committee,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Transmitted herewith is the final report submitted by the Palm Springs Task Force which, at my direction, undertook review of the guardianships and conservatorships established under state law for the majority of the members of the Agua Caliente Band of Mission Indians, Palm Springs, California.

This report and the conclusions reached therein have my full approval.

The principal conclusion is that the present guardian-conservatorship system has been intolerably costly to the Indians in both human and economic terms and that it must be replaced or radically revised.

A review of the contents of the report leaves no doubt as to the soundness of this conclusion. In all frankness I must say that I am appalled that the state of affairs described in the report has not only existed under ostensible state and federal supervision; it has flourished.

As a lawyer I find it particularly disturbing that much of the responsibility for the morally-shabby state of affairs revealed must be laid at the door of some members of the local bar and court.

The report demonstrates that Eugene E. Therleau, now Judge of the Municipal Court of Palm Springs, and Mr. James Hollowell have, between them, been awarded fees of approximately one-half million dollars over the last seven years. The conduct of each reveals instances of apparent conflicts of interest, double charging and fee-splitting. In addition Judge Therleau was awarded a fee of substantial size which was determined by the appellate court to be illegal under California law.

Mr. Hollowell, as brought out in the report, also played a prominent role in assisting two local judges in efforts to profit from Indian estates.

The report indicates that Hollowell named Judge Hilton H. McCabe executor in wills he prepared for a number of Indians, that in at least one instance he served as attorney for the Judge while the latter was serving as executor for a deceased Indian's estate, and that he performed unauthorized legal services for an Indian estate in order to accommodate Judge McCabe in carrying out his duties as executor for the estate of an Indian decedent. Hollowell's services consisted of filing a petition for establishment of a guardianship despite the fact that the minor's family had discharged him as its attorney and objected strenuously to his representation. Though the estate, at its own expense, successfully opposed Hollowell's petition, he nevertheless sought and was awarded a fee for his so-called services in the matter.

Mr. Hollowell further offered his assistance to Judge Merrill Brown when the latter desired to sell some land. The potential purchaser was the conservator of an Indian estate Hollowell represented. Judge Brown not only exercised general supervision over the estate and conservator concerned, but was also the Judge who passed upon all the conservators' requests for commissions or fees. Fortunately, the proposed sale was not consummated.

Certain other members of the bar are also referred to in the report as participants in questionable transactions and activities.

The foregoing matters will be promptly called to the attention of the proper California authorities for their consideration and appropriate action. Some referrals have already been made.

I was equally disturbed at the Task Force finding that the present system of administering the estates and affairs of the Agua Caliente Indians is not only an economic drain but has also perpetrated a grave injustice upon the Indians concerned in human terms. The Task Force found that the Indians, on the whole, are frustrated by lack of knowledge about the administration of their

properties, disgusted by the high costs of the system and its abuses at the hands of some who are instrumental in its administration, and despondent because they do not see that any effort is being made to prepare them ultimately to assume control over their own affairs.

The Task Force also found that a share of the responsibility for the present state of affairs in Palm Springs rests upon the shoulders of this Department. When questions and complaints concerning the administration of these guardianships and conservatorships were first raised several years ago, we placed too great a confidence in the probity and ability of the state judiciary to exercise proper control and supervision over court-appointed fiduciaries and attorneys. As you know, I took steps to rectify this error a year ago.

At the outset of this investigation, I directed that certain intermediate actions, described in Exhibit 6 to the Task Force Report, be taken immediately. As a result of the findings and conclusions of the Task Force, I am supplementing my earlier instructions by the following:

1. All income from trust properties now being paid to the Bureau of Indian Affairs will, for the time being, continue to be paid directly to the Bureau to be administered through special accounts for the use and benefit of the particular Indians concerned; subject however, to modification permitting the restoration of the flow of funds to those individual conservators and guardians whom the Bureau finds to be trustworthy and competent.

2. I have directed the appropriate officers of the Department to immediately explore ways of assisting members of the Agua Caliente Band to make arrangements with institutional trustees when feasible for the management of their non-trust property as substitutes for court appointed fiduciaries.

3. The Bureau of Indian Affairs will immediately assume sole and complete responsibility for the management of all trust properties. This means that all leases, sales and other dispositions of interests in trust lands are to be accomplished by Bureau of Indian Affairs personnel in consultation with the Indian owners and such business advisers and attorneys as may be retained, but with minimum involvement of guardians, conservators and their attorneys.

4. Departmental auditors will selectively audit further estates in accordance with Departmental instructions.

5. The Solicitor's Office will provide a full-time attorney in Palm Springs to render necessary legal services.

6. The Department of Justice will be requested to pursue the legal actions heretofore undertaken and to institute any further actions deemed necessary to obtain accountings and recovery of funds rightfully belonging to Indian estates.

7. As above stated, copies of the Task Force report are to be presented to the proper California authorities for appropriate action.

Although some individual guardians and conservators have performed in a completely honorable and competent fashion, the Task Force has recommended that the entire Agua Caliente Indian guardianship-conservatorship system be abolished. The evidence amply supports this recommendation. A comprehensive study of this recommendation and what may be required to implement it is underway.

Sincerely yours,

STEWART L. UDALL,  
*Secretary of the Interior.*

Enclosure.



UNITED STATES  
DEPARTMENT OF THE INTERIOR

REPORT ON

THE ADMINISTRATION OF GUARDIANSHIPS AND CONSERVATORSHIPS  
ESTABLISHED FOR MEMBERS OF THE  
AGUA CALIENTE BAND OF MISSION INDIANS, CALIFORNIA

PALM SPRINGS TASK FORCE

MARCH 1968

(19)





UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

MAR 27 1968

Memorandum

To: Secretary of the Interior  
From: Palm Springs Task Force  
Subject: Report of Investigation

Submitted herewith is the final report of the special task force which you appointed to investigate the administration of guardianships and conservatorships established under state law for certain members of the Agua Caliente Band of Mission Indians, Palm Springs, California. The report incorporates five schedules and 39 exhibits.

Due to the volume of material reviewed and information received, the exhibit or exhibits used in support of a given finding may not necessarily be exhaustive.

*Robert L. Cox*  
Robert L. Cox, Chairman

*Barry K. Berkson*  
Barry K. Berkson, Member

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I.	Statistical Information Relative to Estate Lands (43 estates)
II.	Income and Disbursements and the Relationship of Disbursements to Ordinary Income (43 estates)
III.	Analysis of Estate Assets to Estate Income (43 estates)
IV.	Income and Disbursements and the Relationship of Disbursements to Ordinary Income (41 additional estates)
V.	Recapitulation of Findings Disclosed in 36 Estates Audited.

Exhibits

<u>No.</u>	<u>Description</u>
1.	Report, January 26, 1968, by Area Director, Sacramento, entitled: Review of Policy, Programs and Procedures Relating to the Agua Caliente Reservation, with Particular Reference to the Involvement of the Probate Court in Indian Matters 1949 - 1967 (without attachments).
2.	Exchange of Correspondence, July 5, 1962 - July 9, 1963, between Chairman, House Committee on Government Operations and Department of Interior (5 letters).
3.	Letter, March 27, 1967, to Judge Brown from Director, Palm Springs Office, Bureau of Indian Affairs.
4.	Letter, April 11, 1967, to Director, Palm Springs Office, from Judge Brown.
5.	Briefing paper, May 12, 1967, by Regional Solicitor, Sacramento, for use of Solicitor's Office.
6.	Action Paper and Fact Sheet, May 19, 1967.

- | <u>No.</u> | <u>Description</u>  |
|------------|---|
| 7.         | Telegram, May 26, 1967, to Secretary from Palm Springs Task Force.  |
| 8.         | Memorandum, June 8, 1967, to Palm Springs Task Force, et al., from Secretary.   |
| 9.         | Memorandum, August 14, 1967, to Palm Springs Task Force, et al., from Secretary.  |
| 10.        | Policy Memorandum for Guardianships, Conservatorships and Minors' Settlements, Indio Departments of Superior Court, Riverside County, California, February 11, 1964.  |
| 11.        | Memorandum, September 1, 1964, to Guardians, Conservators and their attorneys from Judge McCabe.  |
| 12.        | Attorney report on review of court file, Indio No. 510, Vincent Gonzales.   |
| 13.        | Attorney report on review of court file, Indio No. 414, Benita Olinger.   |
| 14.        | Attorney report on review of court file, Indio No. 414, Debra Olinger.  |
| 15.        | Fourth Annual Accounts and Orders, Estates of Frances Patencio, Indio No. 779, and John Joseph Patencio, Indio No. 787; Sixth Annual Account and Order for the Estates of Ray Leonard Patencio and Ruth Elaine Patencio, Indio No. 389. |
| 16.        | Affidavit, September 21, 1967, by Raymond C. Simpson  |
| 17.        | Memorandum, August 24, 1967, to Solicitor from Palm Springs Task Force.   |
| 18.        | Briefing paper entitled: The Clara Bow Story (with attachments).  |
| 19.        | Briefing paper entitled: The Anthony Joseph Andreas Story (with attachments).   |
| 20.        | Canons of Judicial Ethics adopted by the Conference of California Judges (1965 ed.).  |

- | <u>No.</u> | <u>Description</u>  |
|------------|---|
| 21.        | Petition for Authority to Purchase Real Property, March 7, 1967, In the Matter of the Conservatorship of the Estate of Shirley Ann Kitchen, Indio No. 1511.   |
| 22.        | Letter from Bureau of Indian Affairs, Palm Springs Office, to Security Title Insurance Company, March 27, 1967.   |
| 23.        | Report of interview conducted September 21, 1967, with Roy Fey concerning administration of Lease PSL-53 made by the conservator of the Estate of Ray Leonard Patencio to Canyon View Estates (with attachments).               |
| 24.        | Fifth Annual Account Current and Report of Guardian, February 20, 1964, In the Matter of the Guardianships of the Estates of Ray Leonard Patencio and Ruth Elaine Patencio, Indio No. 389.                                      |
| 25.        | Six letters dated April 19, 1962; May 14, 1962 (2); July 13, 1962; August 2, 1962; and September 20, 1962, to Bureau of Indian Affairs, Palm Springs from James Hollowell, copies to Judge Hilton H. McCabe.                    |
| 26.        | Fourth Accounting, Supplemental Accounting and Order, Estate of Anthony Joseph Andreas, Jr., Indio No. 686.   |
| 27.        | Report of Audit, December 1967, Palm Springs Lease PSL-47, Palm Canyon Country Club, Inc.   |
| 28.        | Petition for Appointment of Guardian, August 9, 1965, In the Matter of the Guardianship of the Estate of Joseph Christopher Patencio, Indio No. 1823, and other documents relating to matter.                                   |
| 29.        | Order Approving First Account and Report of Guardians, Authorizing Payment of Guardian and Attorney Fees and Authorizing Reimbursement of Moneys Advanced, Estate of Joseph Christopher Patencio, Indio No. 1823, May 26, 1967. |
| 30.        | Minute Entry, February 18, 1965, by Judge McCabe, In the Matter of the Estate of John Joseph Patencio, Indio No. 787.   |

<u>No.</u>	<u>Description</u>
31.	Report of Interviews conducted December 8, 1967, with Judge Eugene E. Therieau and James Hollowell by Barry K. Berkson concerning fees awarded conservator and attorney for the estate of John Joseph Patencio.
32.	Exchange of correspondence 1961-1962 between Department of the Interior and Raymond C. Simpson.
33.	Report of Audit, January 1968, Estates of Anthony Gilbert Gillette, Linda Delores Gillette and Robert Juan Gillette.
34.	Letter, November 17, 1967, to Charles Renda, Regional Solicitor, Sacramento, from Raymond C. Simpson re: Guardians and Conservators Association.
35.	Report of Audit, October 1967, Association of Conservators, Guardians and Allottees of the Agua Caliente Indian Lands and Estates.
36.	Reports of Audit, February 1968, Estates of Alana May (Segundo) Norte, Belinda Sue (Segundo) Rodriguez, and Leroy Francisco Segundo.
37.	Report of Audit, August 1967, Estate of Edmund Peter Siva.
38.	Report of Audit, January 1968, Palm Springs Lease, PSL-63, Tahquitz Canyon Trailer Park, Inc.
39.	Article, Daily Enterprise, February 20, 1968, by George Ringwald, "Palm Springs Indian Wins Fight to Keep Running His Own Affairs."

I. BACKGROUND

By Executive Orders of May 15, 1876 and September 29, 1877, most of the even-numbered sections of three townships, in and near the present City of Palm Springs, California, were set aside for the Agua Caliente Band of Mission Indians. Under the Mission Indian Relief Act of 1891 (26 Stat. 712), these "checkerboard" lands were conveyed to the Band under patents which provided they should be held in trust for it by the United States. This act authorized the Secretary to allot these lands to individual Indians when he thought they were sufficiently advanced for such ownership. The Act of March 2, 1917 (39 Stat. 969, 976), directed that allotments be made. Nevertheless, no allotments were made until 1949, after lengthy litigation initiated by some members of the Band against the United States. See, e.g., St. Marie v. United States, 24 F. Supp. 237 (S.D. Cal. 1938), aff'd., 108 F.2d 876 (9th Cir. 1940), cert. denied, for reason that application not filed within time provided by law, 311 U.S. 652 (1940); Arenas v. United States, 137 F.2d 199 (9th Cir. 1943), reversed and remanded, 322 U.S. 419 (1944); United States v. Arenas, 158 F.2d 730 (9th Cir. 1946), cert. denied, 331 U.S. 842 (1947).

Due to the way in which the Palm Springs real estate market developed, individual allotments varied in value and certain Indians objected to the allotment formula which was used. As a result, a Federal court directed that the United States allot the lands so



that the allottees would receive lands of equal value. United States v. Pierce, 235 F.2d. 885 (9th Cir. 1956).

In 1949, by enactment of Public Law 322, Congress conferred upon the State of California civil and criminal jurisdiction over Indian lands and residents of the Agua Caliente Reservation, at the same time prohibiting taxation, encumbrance or alienation of lands held in trust by the United States. Under Public Law 280, enacted in 1953, the state was given jurisdiction over Indians and Indian lands throughout the state.

In 1950, Congress made it clear that it thought the time had come to terminate, with respect to the Indians of California, the special relationship which existed between them and the Federal Government. The House of Representatives refused to appropriate funds that year for operations of the Bureau of Indian Affairs in California. H. Rept. No. 1797, 81st Cong., 2d Sess., p. 164. Although funds for this purpose were later restored, Congress made plain that it expected the Executive to move promptly toward termination.

Legislation intended to effect complete termination in California within five years was submitted to Congress in 1952. See Annual Report of the Commissioner, Bureau of Indian Affairs, for Fiscal Year 1952. No action was taken on this proposal but, at the next session, House Concurrent Resolution 108 was adopted (99 Cong. Rec. 10815) which declared it to be the sense of Congress that special Federal services to Indians should be discontinued at the earliest

practicable time, and directed the Secretary of the Interior to present legislation in 1954 to accomplish this objective with respect to certain geographic areas and groups of Indians. California was one of the areas specified. Such a bill was introduced in 1954 and hearings held (Joint Hearings Before Subcommittees of the Committees on Interior and Insular Affairs, 83rd Cong., 2d Sess., S. 2749 and H.R. 7322), but no further action was taken. In 1958 the Rancheria Act was passed, which provided for the distribution of lands and assets of various rancherias and reservations in California.

The Department, through the Bureau of Indian Affairs, had been preparing during the 50's for complete Federal withdrawal from the administration of Indian affairs in California. During this decade responsibility for education and welfare services for Indians was taken over by the state and its subdivisions. Under Public Law 280, supra, the state also assumed responsibility for maintaining law and order in the remaining areas of Indian country.

In sum, the policy of Congress and the Executive during the decade of the 50's was one of termination generally, with particular emphasis on California and certain other areas. It was into this ambience that the Equalization Act was launched in 1959. Although it was anticipated at the time by the Congress and the Department that the Federal trust responsibility for Indian lands in California would soon be terminated, the 1959 Act did not effect this and no further steps toward that end have been taken since.

In addition to confirming the equalization rule laid down by the Pierce case, supra, the Equalization Act of September 21, 1959 (73 Stat. 602, 25 U.S.C. §§ 951 et seq.), provided:

The Secretary shall request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who in his judgment are in need of assistance in handling their affairs in accordance with applicable State laws before making any equalization allotment or payment to such persons. Section 4.

The regulations promulgated to implement this section provided for appointment of conservators as well as guardians (25 CFR 124.5) apparently for the purpose of authorizing utilization of the California conservatorship law adopted in 1957.

Guardians had been appointed for many minors prior to this act, with approval of the Bureau of Indian Affairs, because of concern about the dissipation of minors' funds by some parents. One conservatorship had been established for an adult Indian prior to the act. Thus, the provisions of Section 4 of the Equalization Act were in accord with existing practice. Exhibit 1.

Some 5,000 acres of the approximately 31,000-acre reservation had been allotted prior to the passage of the 1959 Act. Approximately 24,000 acres were allotted after 1959; the remaining acreage was retained in tribal ownership. Upon completion of the equalization process, each of the 104 members of the Band who were allotted wound up with lands having a minimum value of approximately \$335,000.

In implementing Section 4, although it appears that the program was explained to the Indians and that they were informed of their

right to select fiduciaries of their choice, the Bureau in most instances took no part in the actual filing of petitions for appointment of guardians or conservators, despite the fact that the section states, "the Secretary shall request the appointment \* \* \* ."

In two instances the Bureau filed petitions but, as a result of administrative appeals to the Commissioner of Indian Affairs by the Indians concerned, the petitions were withdrawn and no conservatorships were established for them. Exhibit 1.

At the time of equalization there were in existence 60 guardianships and nine more were established. As noted, one adult member was already under conservatorship. Thirteen more adults were placed under conservatorships and 21 were determined capable of managing their own affairs. Age of the allottee appears to have been a determinative factor for appointment of conservators. Invariably conservators were considered necessary for young adults in their twenties.

Because of the then contemplated termination of Federal responsibility discussed above, it is understandable that the Department tacitly adopted standards of competency for the Indians and criteria for the selection of fiduciaries which were somewhat different from those it would have set up had it known that termination of the Federal trust relationship was not imminent. A person who might reasonably be expected to do a creditable job of handling the income is not necessarily capable of managing the corpus of his estate. Similarly, as long as a minor's wealth is principally in the

form of restricted land, his father may be reasonably competent to manage his business affairs. But if the minor possesses unrestricted fee title to lands of great value, a fiduciary possessed of other qualifications might be required.

The conservatorship program is relatively new in California. It was created by legislation which became effective in 1957. It appears that this program was intended to serve essentially the same purpose as a guardianship for an incompetent adult; to establish a conservatorship, however, the court is not required to find that the adult is insane or "incompetent." All that is required is a finding that the adult is in need of assistance in managing his affairs or that he is subject to "artful or designing persons," or simply that he has requested a conservator. (Cal. Prob. Code, Section 1751).

Judicial administration of the guardianships and conservatorships established for the Indians is by the Superior Court in and for the County of Riverside and, by and large, has been handled in the Indian Division of that court. Since fiduciaries were first appointed, 92 Indian estates have been under the court's administration at one time or another. As of February 1968 there were 50 guardianships and 24 conservatorships in existence. Twenty-three adult members of the Band now handle their own affairs. Although petitions to appoint conservators have been filed almost routinely as minor wards have attained their majorities, the Department has in no case participated in such actions.

The ink was hardly dry on the Equalization Act before Congress and the Department began receiving complaints from the Indians. In 1961, the Department reprimanded an attorney for conflict of interests arising out of his collecting fees from the lessee for services rendered the estate of an Indian in connection with the making of a lease.

In 1962, the House Committee on Government Operations made inquiries, and the Department, taking a narrow view of its residual responsibilities, conducted a truncated investigation of certain activities of Indian guardians and conservators and reported its conclusions to the Chairman in 1963. Exhibit 2.

Early in 1964, the Tribal Council transmitted an extensive list of grievances to the Commissioner of Indian Affairs about the manner in which the program was being handled. Thereafter, in 1965, the Department appointed a Resources Trust Officer in the Palm Springs office to work informally with the Superior Court in its administration of the program and to inquire into past operations. In a June 1966 report to the Area Director, Bureau of Indian Affairs, Sacramento, the Trust Officer reported that in 1965 approximately 37 percent of the ordinary income--exclusive of income from sales of land--accruing to Indian estates was consumed by fees and other administrative expenses.

On July 19, 1966, the Area Director forwarded the report to Washington. It was returned in January 1967 for further work.

In March 1967, Homer Jenkins, Director of the Palm Springs office of the Bureau of Indian Affairs, addressed a letter to Judge Merrill Brown of the Superior Court in which he strongly objected to the appointment of James Hollowell as guardian of certain Indian estates and asserted that certain fees requested by Hollowell were unconscionable. Exhibit 3. At a subsequent hearing, Hollowell received the requested fees and appointments. Under date of April 11, 1967, Judge Brown wrote to Jenkins that he would no longer allow Bureau representatives to advise the court informally with respect to Indian guardianship and conservatorship matters coming before it. Exhibit 4. This exchange of correspondence occurred about the time Judge Brown's attempt to sell land to the estate of an Indian underguardianship aborted. The land sale proposal is discussed in more detail under Section II, C. 1. p. 24, infra. After these developments were brought to the Department's attention by Mr. Charles R. Renda, Regional Solicitor, Sacramento, in early May 1967, the present investigation was initiated by the Secretary who appointed this Task Force to look into the situation and report its findings. Exhibits 5-9.

## II. FINDINGS OF TASK FORCE

### A. Cost of Program to Indian Estates

#### 1. Fees

##### a. General Statistics

(1) Audit information relating to 43 estates covering various accounting periods within the time span from July 1956 to May 1967 reflects:

Receipts to these estates from all sources, including ordinary income, sales of trust lands, and miscellaneous, totaled \$5,563,509.67. Ordinary income amounted to \$2,144,374.61. Proceeds from sales of trust lands were \$3,186,117.28. Miscellaneous receipts totaled \$233,017.78. Against these receipts, fees were awarded to fiduciaries and attorneys in the sum of \$891,966.19. Of this amount, \$677,244.83 was actually paid. Thus fees awarded amounted to 16 percent of the total receipts of the estates and 42 percent of ordinary income. Fees paid amounted to 12 percent of total receipts and 32 percent of ordinary income. Schedule II.

(2) Information furnished by the Bureau of Indian Affairs on 41 other Indian estates covering various accounting periods within the time span from October 1956 to November 1967 reflects:

Receipts to these estates from all sources, including ordinary income, sales of trust land, and miscellaneous, totaled \$5,296,528.89. Ordinary income amounted to \$2,029,766.03. Proceeds



from sales of trust land were \$3,260,817.46. Miscellaneous receipts totaled \$5,945.40. Against these receipts, fees were awarded to fiduciaries and attorneys in the sum of \$633,024.77. Of this amount, \$535,085.22 was actually paid. Thus fees awarded amounted to 12 percent of total receipts of the estates and 31 percent of the ordinary income. Fees paid amounted to 10 percent of total receipts and 26 percent of ordinary income. Schedule IV.

(3) Combining the data from (1) and (2) above, we find with respect to the 84 estates included (out of the total of 92 which have existed at one time or another) that:

Receipts to these estates from all sources, including ordinary income, sales of trust lands, and miscellaneous, totaled \$10,860,038.56. Ordinary income amounted to \$4,174,140.64. Proceeds from sales of trust land were \$6,446,934.74. Miscellaneous receipts totaled \$238,963.18. Against these receipts, fees were awarded to fiduciaries and attorneys in the sum of \$1,524,990.96. Of this amount \$1,212,330.05 was actually paid. Thus fees awarded amounted to 14 percent of the total receipts of the estates and 36.6 percent of ordinary income. Fees paid amounted to 11 percent of total receipts and 29 percent of ordinary income.

When broker fees and other estate expenses are added to fiduciary and attorney fees, the result is that more than 44 percent of ordinary income was awarded and 37 percent paid out for administration expenses. Schedules II and IV.

(4) Fees awarded by the Superior Court to fiduciaries and attorneys have ranged from 1 percent to 340 percent of total receipts. The breakdown is as follows:

<u>Estates</u>	<u>Percent</u>
41	1 to 15
11	16 to 25
16	26 to 50
11	51 to 100
5	101 to 340

b. Principal Recipients

The individual who received the largest amount as fees is Judge Eugene E. Therieau. For his services rendered in various capacities, he was awarded in excess of \$257,000 over a period of approximately seven years.

Receiving the largest amount as attorney fees was James Hollowell. From October 1961 to February 28, 1967, his awards amounted to \$227,373.64. It should also be noted that Mr. Hollowell is now conservator or guardian for seven estates and since February 28, 1967, has been awarded fees for services in such capacities as well as additional attorney fees in other estates.

Fees awarded to Therieau and Hollowell were assessed against approximately 28 Indian estates.

Thus, out of approximately \$1,500,000 total fees awarded to fiduciaries and attorneys against 84 Indian estates, these two individuals were awarded approximately \$485,000, or about 30 percent.

c. Basis of Fee Awards

Fees awarded have not been uniform for seemingly identical kinds of services performed for different estates. For example, one attorney charged \$90 for securing an ex parte order to sell or purchase securities; another charged \$250 for the same service. Compare Fifth Accounting filed in the Estate of Grace Belardo Toro, Indio No. 937 (accounting period November 1, 1965, to October 3, 1966), with First Accounting filed in the Estate of Clarice Bow, Indio No. 1947 (accounting period February 7, 1966, to December 31, 1966). Charges for filing annual accountings have ranged from \$50 to \$500. Compare Fourth Accounting filed in the Estate of Darlene Marie Diaz, Indio No. 390 (accounting period May 6, 1966, to February 21, 1967), with Third Accounting filed in the Estate of Michael R. Milanovich, Indio No. 1378 (accounting period December 30, 1965, to December 31, 1966).

In our view state law and practice relating to the allowance of fiduciary and attorney fees in guardianships and conservatorships are wholly inadequate. Unlike the specific formulas and limitations set forth in the statutes for analogous fees in the administration of decedents' estates in California, the code provisions dealing with guardianships and conservatorships merely provide for "reasonable" fees. (Cal. Prob. Code, Sections 900-903; 910; 1556; 1556.1; and 1908). Consequently, the determination of fees in guardianships and conservatorships is left entirely to the discretion

of the court. In the Indio court this means practically automatic approval of fees requested by fiduciaries and their attorneys in Indian estates unless objections are made.

In this regard, however, it must be noted that the volume of probate matters (which in California includes guardianships and conservatorships) coming before that court, is so great that, regardless how conscientious, the judge assigned to the weekly probate calendar could not adequately review and evaluate the services alleged in each case in support of fees requested.

We are informed that some Superior Courts in California (e.g., those for Kern, Los Angeles, San Bernardino, and San Francisco counties) have probate commissioners whose primary responsibilities are to review and evaluate fees requested in probate matters. The Superior Court for Riverside County has no such commissioners.

The court in Indio, on February 11, 1964, issued a policy memorandum which, among other things, provided that a guardian or conservator would be entitled to a fee in the amount of three-fourths of one percent of the current value of his ward's estate, excluding trust property, for "ordinary" services, including filing the required annual accountings. Exhibit 10. He would, however, be permitted to claim additional fees for "extraordinary" services; but there has been no uniformity among fiduciaries and attorneys as to the types of service treated as ordinary and extraordinary.

The policy memorandum defines extraordinary services as negotiating leases, handling complex real estate transactions, participating in litigation, and performing similarly demanding tasks. Accountings reflect, however, that clearly routine services such as purchasing cars or securities, preparing income tax returns, attending meetings, or consulting with wards or conservatees are frequently classified as "extraordinary." The prescribed formula is more honored in the breach than in the observance.

In a number of cases, attorney fees for lease negotiations have been allowed by the court based upon fees normally charged by licensed real estate brokers. A letter of September 1, 1964, from Judge McCabe to fiduciaries and attorneys sanctioned this practice. Exhibit 11. For example, in the Estate of Vincent Gonzales, Jr., Judge Brown allowed a \$28,000 fee to attorney Hollowell during the fourth accounting period which appears to have been calculated on the basis of the amount a licensed real estate broker might have charged. Exhibit 12.

In the Estates of Benita Olinger and Diane Voorhees, the attorney, Raymond C. Simpson, was actually awarded fees of \$7,630 for each estate--a total of \$15,260--for negotiating a 65-year lease with the Myers-Koozin Company. He based the fees on 218 hours of work for each estate, at \$35 an hour. The Olinger file reflects, however, that it was his original intention to request as his fee two and one-half percent of \$1,404,000--the total guaranteed minimum rent anticipated over the full period of the lease--and to

charge lessees for the difference between this amount and the fee awarded by the court from the ward's estate.

Exhibit 13.

This insertion of the practices of the market place into fiduciary relationships seems clearly improper.

See: In re Guardianship of the Estate of Prieto, 52 Cal. Rptr., 80 (1966); Haas v. Greenwald, 275 U.S. 490; Gage v. Billings, 108 P. 664 (1910).

## 2. Duplication of Services

There is frequent duplication of services rendered by fiduciaries and attorneys, resulting in the payment of two fees for essentially one service. For example, a fiduciary bills an estate for his efforts in effecting a lease of trust property, for handling a right-of-way transaction or for attending a meeting. The same accounting which presents the fiduciary's request for fees for these services also requests that the attorney for the fiduciary be separately recompensed for services purportedly rendered in connection with the same matters. Exhibits 12 and 14.

In many instances the attorney's services are purely routine, such as obtaining ex parte orders. In several estates the fiduciary's attorney performs services normally performed by the fiduciary, and claims attorney fees for them even though the fiduciary receives his full "ordinary" fee. If the same attorney handles several estates in a particular transaction identical fees may be charged to each estate regardless of the routine and duplicative nature of the services.

Eugene Therieau, for example, has been guardian of the estates of Ray and Ruth Patencio and conservator of the estates of their parents, John and Frances Patencio. In the Ray Patencio estate Therieau requested fees for extraordinary services, described as: negotiating for discount of judgment obtained against ward by victim of ward's automobile accident; securing loans from estates of ward's sister and parents for settlement of the judgment; obtaining authority from Bureau of Indian Affairs for assignment of ward's rental income to repay these loans; rendering services in connection with lease amendments and rights-of-way; petitioning for broker's fee; petitioning for increase in ward's allowance; and purchasing

a motor bike. He was allowed \$3,000 in extraordinary fees. James Hollowell, attorney for the estate, was allowed \$1,540 for assistance with the above services. Moreover, some of these same services were included in support of extraordinary fiduciary fees requested from the estates of Ray's sister and parents, and attorney fees were also requested in these estates for assistance with the services for which the fiduciary was recompensed. Exhibit 15.

There is also duplication of the functions of the Bureau of Indian Affairs by the Superior Court whenever trust lands are involved in a transaction. All dispositions of trust lands, such as sales, leases, grants of rights-of-way, etc., require approval by both the Bureau and the court. This dualism results in unduly complicating and delaying the consummation of transactions as well as in creating a great deal of unnecessary expense to Indian estates. Transactions involving trust lands are cited by fiduciaries and attorneys as justifying the major portion of their fees.

### 3. Inadequacy of Records

In 36 estates a thorough check was made not only of the official accountings but also of records maintained by fiduciaries and attorneys, with the following results:

No adverse findings	9 cases
Records not adequate	23 cases
Inadequate supporting documentation	25 cases
Income not properly accounted for	15 cases
Assets overstated	7 cases



Assets understated	10 cases
Cash shortages	6 cases
Cash overages	2 cases
Accountings not submitted on timely basis	7 cases
Expenditures made without prior court approval	4 cases
Ordinary receipts not identified	2 cases
Duplicate payments made	1 case
Transactions not disclosed to court	8 cases
Income tax not paid on taxable income	2 cases

## Schedule V.

In other estates for which only court records were reviewed, similar defects in accounting were noted.

B. Development of Indian Estates1. Land Status

Analysis of 43 Indian estates reveals the following with respect to the lands included therein:

- a. Twenty estates, or 46 percent, have no long-term leases in effect.
- b. Out of 38 long-term (primarily 65-year) leases executed, 12 have been terminated. This represents a

termination rate of about 32 percent.

c. Acreage allotted, inherited, or purchased totaled 12,741.49 acres, of which 10,653.76 acres were allotted.

d. Acreage sold totaled 641.71 acres, or about five percent of the total in item c. above.

e. Total acreage covered by 26 active leases is 687.39 acres, slightly more than 5 percent of the total in item c. above.

f. Remaining unproductive are 11,412.39 acres, slightly more than 94 percent of the total acreage, excluding lands sold. This includes a considerable amount of isolated and mountainous land which has little immediate development potential.

g. The anticipated income from the 26 active long-term leases based upon minimum rents and absent defaults is \$24,709,886.39. For the most part these are 65-year leases.

Schedule I.

## 2. Impediments to Development

Aside from market conditions, the following circumstances appear to impede development of Indian land in comparison with equally desirable non-Indian land:

a. Authorization for trust land transactions must not only be obtained from the Bureau of Indian Affairs, but from the Superior Court as well, a procedure which is time-consuming, burdensome, and expensive for the Indians and lessees.

b. Frequency of personnel changes in the local Bureau office has contributed to the lack of momentum in the development program.

c. It is difficult for lessees to arrange financing for Indian leases.

d. The fact that some lessees have had to pay the lessors' fiduciaries and attorneys, as well as their own attorneys and brokers, is an additional encumbrance to the development of Indian lands. The Palm Canyon Country Club and Tahquitz Trailer Park leases are outstanding examples of this and necessarily involve conflicts of interests. They are discussed under Section II. C. 2., p. 32 , and Section II. C. 4., p.40 , infra.

### 3. Decline in Estate Values

Statistical studies of 43 estates revealed the following:

a. Forty-two estates showed increases in the value of assets subject to administration by the fiduciaries. This does not mean, however, that the total holdings of the wards and conservatees increased. Fiduciaries account only for assets not under Federal trusteeship. The Indians' non-trust assets are, of course, increased when their trust lands are sold and the proceeds paid over to their fiduciaries. Thus, the total holdings of an Indian, trust and non-trust, may have declined while his non-trust assets in the hands of his fiduciary increased due to the addition of proceeds from conversions of trust property to non-trust property. In this connection it is significant that income from sale of trust lands has far exceeded ordinary income. Section II. A. 1., page 10, supra.

(1) Seventeen estates, or 40 percent, have declined in overall value during the period of fiduciary management due to

disbursements having exceeded ordinary income. Rates of decline as measured against assets on hand are as follows:

In 9 cases, the declines ranged from 1% to 10%;

In 6 cases, the declines ranged from 14% to 24%;

In one case, the decline was 37%; and

In another it was 214%.

(2) Twenty-six estates, or 60 percent, showed increases in overall value during the periods of fiduciary management as a result of ordinary income having exceeded disbursements. The rates of increase as measured against assets on hand are as follows:

In 15 cases, the increases ranged from 0.4% to 10%;

In 9 cases, the increases ranged from 11% to 24%;

In one case, the increase was 61%; and

In another, it was 77%.

(3) In the forty-third estate, the value of assets has so declined that a net deficit exists. Schedule III.

b. Analysis of 84 estates disclosed total disbursements for use of the Indians amounted to \$2,923,897.34, or approximately 70 percent of ordinary income, and total disbursements for the use of the Indians and for administrative expenses, including fees, amounted to \$4,450,176.61, or approximately 107 percent of ordinary income. Ordinary income amounted to \$4,174,140.64. Schedules II and IV.

### C. Involvement of Individuals

#### 1. Superior Court Judges

Since passage of the Equalization Act, judicial administration

of the majority of the estates of the Agua Caliente Indians has been assigned to Judge Hilton H. McCabe (former Superior Court Judge, Riverside County, California) and Judge Merrill Brown (present Superior Court Judge, Riverside County, California). They were responsible for the appointments of most of the guardians and conservators who have represented the Indians. Judge McCabe is now a Justice of the State Court of Appeals, San Bernardino, California.

a. Judge Hilton H. McCabe

Following the establishment of the guardianship and conservatorship program for the Indians, Judge McCabe, who took over judicial administration of the system, was in position to formulate the policies and practices adopted for its operation. He not only appointed the original groups of fiduciaries but sat in judgment on their requests for fees. Obviously, if Judge McCabe had seen fit to do so, he could have set excellent precedents and guidelines. It is unfortunate that he did not.

(1) While serving as Superior Court Judge at Indio and sitting on most guardianship and conservatorship matters involving Indian estates, Judge McCabe apparently encouraged the attorneys for the estates to get the wards to make wills, letting it be known that he was available and willing to serve as executor. Exhibit 16.

Review of 27 wills of living Palm Springs Indians on file in the office of the Examiner of Inheritances at Phoenix revealed that Judge McCabe is named as first executor in ten. James Hollowell was the scrivener of nine of these wills. Every

will in which Judge McCabe is named as executor contains a provision that he serve without bond. Exhibit 17.

Several Indians who made the wills stated variously to the Task Force that they did not understand that it was their prerogative to name an executor, that an executor had been named, that the executor's bond had been waived, and that the executor was entitled to fees.

The records of the Superior Court for Riverside County evidence that Judge McCabe has served as executor of the estates of five deceased Indians and has been awarded fees in excess of \$19,000 for such services. The estates were those of Clara Segundo Bow, Indio No. 1046; Celia P. Hopkins, Indio No. 1740; Albert Richard Welmas, Indio No. 1499; Audrey Elizabeth Welmas, Indio No. 1541; and Joaquina Nombrie Segundo, Indio No. 1482.

In the case of Clara Segundo Bow (Clara Marie Bow), McCabe, as Judge, actually signed the order discharging her guardian inter vivos and transferring her estate to himself as executor under her will. Exhibit 18.

(2) On interview, Mr. Hollowell stated that at Judge McCabe's request he had petitioned the Superior Court, Judge Merrill Brown presiding, for appointment of a guardian over the Estate of Joseph Christopher Patencio. Hollowell admitted that he recently had been discharged as attorney for the Patencio family and that he was not representing anyone when he filed the petition. He said that at the time Judge McCabe was serving as executor of the Estate of

Celia Hopkins and was anxious to distribute assets. This could not be done until a guardian was appointed for Joseph Christopher Patencio, a distributee under the Hopkins will. This matter is discussed further under Section II. C. 2. a., p.29 , infra.

(3) Another instance of Judge McCabe's acting in two incompatible capacities occurred when he ruled upon a petition granting an Indian estate authority to purchase property from the estate of a decedent (Lawrence Crossley) while he was serving as co-conservator for the widow and principal beneficiary. Exhibit 19.

(4) Judge McCabe made known to Bureau personnel that he did not favor advising Indians of their rights to nominate persons of their choosing as conservators and guardians.

Although such determinations are beyond our ken, we believe that the activities of Judge McCabe should be reviewed by appropriate authorities for compliance with the Canons of Judicial Ethics, particularly 4, 20, 22, 23, and 25. Exhibit 20.

b. Judge Merrill Brown

(1) In early 1967, Judge Brown attempted to effect a sale of some land which he owned to an Indian conservatorship estate which was subject to his supervision as Judge of the Superior Court.

On March 7, 1967, James Hollowell, as attorney for Lew Levy, conservator of the Estate of Shirley Ann Kitchen, filed a petition with the Superior Court for authority to purchase certain lands belonging to Judge Brown. The petition did not disclose the fact that the lands were owned by Judge Brown. It recited that the

conservator felt that the subject property was a good investment and that the matter of the purchase price would be left to the discretion of the court. Exhibit 21.

Lew Levy stated upon interview that while he was in Hollowell's office in February 1967, Judge Brown telephoned Hollowell, who interrupted the telephone conversation to ask Levy whether he would be interested in handling a parcel of land Judge Brown wanted to sell. Levy stated that he expressed interest, with the idea that he might find a buyer and earn a real estate commission. He said that he accompanied Judge Brown and Hollowell on an inspection of the property a day or two later, and that, shortly thereafter, Hollowell telephoned him and asked whether Judge Brown's land might not be a suitable investment for Shirley Ann Kitchen's estate. Levy said he told Hollowell that Shirley's estate had funds available for investment, and that the purchase was a possibility, but thinks he made no commitment. He indicated that he did not fully understand the import of the petition filed with the Superior Court.

Levy said he felt some shock when Homer Jenkins, Director of the Palm Springs office of the Bureau of Indian Affairs, advised him about March 23, 1967, that the Bureau had appraised the land at \$1,500 per acre, that if the court approved a sale at this price there would be no objection to the sale from the Bureau, and that Levy would, in effect, be committed to make the purchase. Levy then asked Mr. Jenkins' advice as to how to call off the deal, and Jenkins assisted him in drafting a letter to Hollowell directing



that the petition be withdrawn.

Mr. Jenkins stated upon interview that he was disturbed by the apparent attempt by Judge Brown to conceal ownership of the land. He stated that during a court ceremony at Indio on March 22, 1967, Judge Brown handed him a handwritten draft of a proposed letter from the Bureau of Indian Affairs to a title company expressing Bureau approval of the purchase of the land at \$1,800 per acre. Jenkins said Brown told him that this letter would simplify and expedite the sale of the property. The Bureau of Indian Affairs prepared the letter as drafted by Judge Brown but substituted the figure \$1,500 per acre, the value established by a Bureau appraisal. Exhibit 22.

Cyril Swanson, BIA appraiser, on interview recalled that he had discussed the proposed land sale with Judge Brown, that the Judge did not mention the conservator or Indian allottee involved, that he indicated that at the time he acquired the land it was estimated to be worth about \$900 per acre, and that he wanted to sell it because of personal financial problems.

We believe that it was unethical for Judge Brown to attempt to sell his own land to an estate over which he exercised judicial supervision, particularly under the circumstances described, using a conservator's attorney, James Hollowell, as the catalyst for the transaction.

(2) In September 1961, Judge Brown ordered the lessee to pay a fee of \$20,000 to Eugene E. Therieau as attorney for

Lawrence Crossley, conservator of the Estate of Joseph Patrick Patencio, for his services in negotiating the Tahquitz Trailer Park lease for Patencio and three other Indian landowners. The court's authority over the lessee seems highly questionable. The petition to approve the lease did not indicate that payment was expected from the lessee. This matter is also discussed under Section II. C. 4., p.40, infra.

(3) As discussed under Section III. E., p. 49, infra, the current litigation involving fees collected by Eugene Therieau in connection with the Senci lease has been removed from Judge Browi's court because of possible bias and prejudice. In connection with the Senci lease, Judge Brown awarded fees to Therieau for brokerage services although Therieau was not a licensed broker. See: In re Guardianship of the Estate of Prieto, supra.

(4) Judge Brown also acted in the Joseph Christopher Patencio matters discussed under Section II. C. 2. a., p. 29, infra.

## 2. Attorneys

Our more significant findings concerning various attorneys involved in the administration of Indian estates are as follows:

### a. James Hollowell

#### (1) Conflict of Interests

Mr. Hollowell serves as attorney for the conservator of the Estate of Ray Leonard Patencio. He secures court orders authorizing and approving real estate transactions. Mr. Roy Fey,

lessee under a lease from the estate, has been unable to secure court orders necessary to operate the lease without paying attorney fees to Hollowell in addition to fees charged by his own counsel. Hollowell charged both Mr. Fey and the Patencio estate for the same work. Exhibits 23 and 24.

As stated above, Hollowell prepared nine of the ten wills in which Judge McCabe is named executor and some of the Indians indicated that Hollowell did not make clear to them the import of the executor clauses. Hollowell kept McCabe advised of the preparation of wills in which McCabe was named executor. Exhibit 25.

Radio Station KDES in Palm Springs acquired rights-of-way from two Indian estates represented by Hollowell, and from a third Indian estate represented by another attorney. Although Hollowell did not represent KDES, its representatives stated on interview that he had billed it for \$3,500 for his services. For approximately the same service rendered to the third Indian estate, the other attorney billed KDES \$250. KDES succeeded in getting Hollowell to reduce his fee to \$500 after it was pointed out to him that he was charging one of his Indian estates for the same service.

Hollowell attempted to correct the accounting he had previously filed with the court in the Indian estate to delete reference to these services as supporting the fee he had been awarded, but it appears that at least part of this fee constituted payment for services performed in connection with the KDES rights-of-way. Exhibit 26.

As attorney for two Indian lessors, Hollowell received \$557.50 from the lessee for an ex parte order authorizing amendment of the Palm Canyon Country Club lease. Exhibit 27.

(2) Unauthorized Representation

On August 9, 1965, Hollowell filed a petition for the appointment of a guardian for Joseph Christopher Patencio. The petition stated that the minor was under the care of his parents and had been designated to take property under the will of Celia Lopez Hopkins. It requested that a suitable person be appointed guardian. Prior to the petition, the mother had employed attorney Raymond C. Simpson to request the appointment of a guardian for the child. Hollowell, in an interview, said that Judge McCabe, while serving as executor of Celia Hopkins' estate, requested that Hollowell file the petition because a guardianship was needed for Joseph before McCabe could wind up the affairs of the Hopkins estate. Hollowell knew at the time he filed the petition that he was not employed as attorney for the family, and that differences existed between him and the family which had resulted in his having been discharged as their attorney. He contended that anyone can file such a petition under California law as a "friend," and that he has always considered himself the family's attorney, notwithstanding his discharge.

On August 20, 1965, a hearing was held on Hollowell's petition. At that time, through their attorney, the family requested that the mother and the Title Insurance and Trust Company be appointed co-guardians. The court, however, appointed the First Western Bank

as sole guardian. It changed the order to include the mother only after her attorney strenuously objected to the court's action of disregarding preference rights of parents under California law.

For his "services" in the matter, Hollowell, in April 1966, filed a petition requesting attorney fees and expenses of \$632.68. The court allowed him \$532.68. Exhibit 28. Under the circumstances the award of this fee was clearly an unconscionable milking of the assets of the ward. It should be added that the estate was further burdened by the necessity of retaining counsel to defend against this unauthorized intrusion by Mr. Hollowell. Exhibit 29.

### (3) Fee Splitting

In the fourth accounting in the Estate of John Joseph Patencio (Indio No. 787), attorney Hollowell and conservator Therieau requested fees in the amount of \$15,000 each for assisting in the negotiation of a lease to the Sunquitz Corporation. The court approved the \$15,000 fee requested by Judge Therieau, but later after objection by the Bureau reduced it to \$11,000. The court refused to allow the \$15,000 fee requested by Hollowell. Judge McCabe, however, did allow attorney fees to Hollowell in the amount of \$2,000, but specifically disallowed fees for the Sunquitz lease matter. The order states:

Repetitively the duties of the Conservator are not delegable. The relationship of the conservator with his attorney is that of Attorney-client. Any work done by the attorney must have been ordered done by the conservator for legal work.

Exhibit 30.

Nevertheless, Judge Therieau split his conservator fee with Hollowell on a 60%-40% basis, Hollowell receiving 40%. This split was admitted by both Therieau and Hollowell during interviews on December 8, 1967. Judge Therieau stated that he felt the language of the order was indeed unusual, that he interpreted it to mean that the conservator was to pay his own attorney out of the fees awarded, and that Hollowell had not submitted a bill to him for legal services.

Exhibit 31.

b. Raymond C. Simpson

(1) Conflict of Interests

Raymond C. Simpson has been retained as attorney for the Agua Caliente Band of Mission Indians since March 11, 1957. His latest contract was approved by the Department on March 7, 1966. In addition to his representation of the tribe, Mr. Simpson represents individual members of the tribe and some guardians and conservators.

In 1961 a special Departmental investigative team looked into complaints involving leases made by certain Indian estates which Simpson was representing. Simpson made no secret of attempting to collect his fees from the lessees rather than from his Indian clients. He maintained that he was charging the lessees with the full knowledge and consent of the Indians he represented; that he was saving the money of the Indians; and that the Superior Court in and for Riverside County, California, approved the practice. After an exchange of correspondence, and at least one conference, the

Department closed the matter with a warning to Mr. Simpson that should he receive fees from lessees, such fees should be " \* \* \* promptly turned over to the Bureau of Indian Affairs \* \* \*."

Exhibit 32. See also the references to Mr. Simpson under Section II. A. 1., p. 14, supra.

c. Schlesinger, Schlecht and McCullough

(1) Conflict of Interests

A review of the books and records of the Palm Canyon Country Club, Inc., of Palm Springs, lessee under a master lease from several Indian lessors, indicates that the law firm of Slaughter, Schlesinger and Schlecht (now Schlesinger, Schlecht and McCullough), while representing certain Indian estates involved, received fees from the lessee country club for right-of-way work and obtaining an ex parte order in connection with the lease. Exhibit 27.

(2) Inaccuracy of Accounting

The audit report on the Estates of Anthony, Linda, and Robert Gillette reveals that, as attorneys for the estates, Slaughter, Schlesinger and Schlecht failed to report to the court existing cash shortages in the estates during the third, fourth, fifth, sixth, and seventh accounting periods, covering the years 1958 to 1965. Further, savings account balances were reported to the court which did not exist or were, in many cases, more than six months past the end of the accounting period. The audit indicates that at the close of the seventh accounting on January 6, 1965, cash shortages totaled \$32,028.44. Shortly thereafter, the

attorneys disclosed the shortages to the court. Work sheets in the law firm's files disclose that the firm was aware of the shortages and that balances reported in the accountings to the court were overstated. When we discussed these findings with the attorneys, they did not deny knowing of the shortages prior to disclosure to the court but contended that they subsequently disclosed the matter to the court's satisfaction and that the shortages were made up by the guardian. Exhibit 33. Details of the shortages are discussed under Section II. C.3., p. 36, infra.

d. John P. Carroll

In the Estate of Elizabeth Ann Welmas, John P. Carroll, the attorney for the estate, asked for a total fee of \$250 for filing Supplemental Agreement No. 5 to the Palm Canyon Country Club lease and for preparing the second accounting and drafting an order. The Department's amicus called attention to the fact that Mr. Carroll had received from the lessee a payment of \$150 for obtaining Supplemental Agreement No. 5; that this service, therefore, should not be considered in justification of his fee request; and that he had placed himself in a conflict-of-interest position by accepting a fee from the lessee at the time he was representing the lessor. The matter is under submission to the court. Exhibit 27.

e. Saul Ruskin and Thurman Arnold

Saul Ruskin and Thurman Arnold, attorneys for two lessor Indian estates, received fees from the lessee for ex parte orders authorizing amendment of the Palm Canyon Country Club lease,



thus placing themselves in a conflict-of-interest situation.

Exhibit 27.

We believe that the matters discussed under this heading concerning attorney conduct should be referred to the appropriate California authorities.

### 3. Fiduciaries

#### a. Association of Conservators, Guardians, and Allottees of the Agua Caliente Band of Mission Indians

Judge Hilton H. McCabe was instrumental in the founding of this association, which was organized February 7, 1962. Its stated purpose was "to advance and improve the capabilities of the members of the Association in guarding and conserving the Estates of the Wards and Conservatees under their control and management by coordinating the development of Indian land to its best and most profitable use."

To fund the association, the Indian estates represented were assessed 0.1 percent of their values. Forty-five estates paid assessments ordered by the Superior Court in the total amount of \$12,653.84. Seven estates gave notes for assessments in the total amount of \$2,345.92; ten estates assessed have not paid; and thirty estates were not assessed. The money was to be used to maintain an office and information center in which maps and pertinent information would be available to prospective developers and lessees. (Such materials and information were always available from the Bureau of Indian Affairs in Palm Springs.)

The information center was never established. It appears that some funds contributed by the Indians have not been used for the stated purposes of the organization. The few Indian members who originally joined the association no longer participate. The Band has expressed disillusionment with the Association and has requested the United States to take appropriate action to recover funds derived from Indian estates. (See Section III. E. 2., p. 51, infra.)

b. Harold P. Machen

Harold P. Machen serves as conservator-attorney for the Estates of Alana May Norte and Belinda Sue Rodriguez and was conservator for the Estate of Leroy Francisco Segundo, since terminated.

Audits of these estates revealed:

(1) Machen has a practice of destroying all cancelled checks, checkbooks, etc., one year after the court's approval of his accountings. He also destroys all invoices, vouchers, receipts, etc., immediately upon payment. Because of these practices, the auditors advise that it was impossible to determine the propriety of the disbursements reported in accountings from 1958 through December 31, 1965.

(2) Estate funds disbursed were not reported to the court. Computation of rental income was inaccurate and cash balances reported to the court could not be reconciled.

(3) Leroy Segundo's and Belinda Sue Rodriguez' estates revealed shortages of funds.

(4) In the Leroy Segundo estate, Machen converted funds to his own use. Exhibit 36.

We believe that corrective court action should be undertaken and that these matters should also be referred to the appropriate California authorities.

c . Gloria W. Gillette

Mrs. Gillette, the mother of Linda Delores, Robert Juar. and Anthony Gilbert Gillette, was appointed guardian of their estates on July 13, 1956. Audits of these estates revealed:

(1) No formal journals or records were established or maintained for the three estates.

(2) Delinquent land rental is owed by the guardian in Linda's estate. She agreed rental was due and offered to convey a house to the estate in satisfaction of the obligation.

(3) Rental income in Robert's estate in the amount of \$305 had not been reported. Guardian agreed with audit findings and advised that these rentals were omitted because of computational error. The rent will be reported in the next accounting.

(4) Guardian used wards' funds for personal benefit during period covered by several accountings. During the seventh accounting period, shortages reached a total of \$32,028.44. The court was advised of the situation and restitution was made. It appears that a shortage of \$2,219.78 existed as of the closing date of the eighth accounting period, June 30, 1966. Exhibit 33.

d. Stanley Spiegelman

The audit report on the Estate of Anthony Joseph Andreas reveals an apparent overstatement of assets by conservator Spiegelman resulting from the purchase, in 1963, of a one-half interest in a parcel of land, described as Tract 39, for \$14,000 from the Estate of Lawrence Crossley and its valuation for court accounting purposes at \$30,000. Further inquiry revealed that the \$30,000 was intended to reflect the value of an entire interest in Tract 39, family homesite of the Andreases, since one-half interest had been deeded to Anthony Joseph by his grandmother in 1959 prior to his purchase of the outstanding half interest. By the same deed, she had conveyed this other half interest to Lawrence Crossley.

It appears that Mrs. Andreas executed the deed at Crossley's suggestion, without consideration, to insulate the property from a potential judgment debt. Therieau, as attorney for Crossley, drew the deed. Crossley later became Anthony's conservator

and Therieau his attorney. Upon Therieau's elevation to the bench in 1961, Hollowell took over as attorney for Anthony's estate. When Crossley died, Therieau was appointed executor for his estate and chose Hollowell as his attorney. Judge McCabe became a co-conservator, with Therieau, for Crossley's widow. Spiegelman succeeded Crossley as conservator for Anthony and Hollowell stayed on as his attorney. Spiegelman, in the capacity of State Inheritance Appraiser, appraised Crossley's interest in Tract 39.

Mrs. Andreas died shortly after Crossley. Anthony was one of her principal heirs. He informed his new conservator, Spiegelman, and his attorney, Hollowell, about the circumstances of his grandmother's conveyance of the half interest in Tract 39 to Crossley. Spiegelman told him it was too late to do anything about the matter, and Hollowell, now acting also as attorney for Crossley's estate, told him he could not get involved.

Anthony told them he wanted to preserve the family home-site. Spiegelman (conservator of Anthony's estate and State Inheritance Appraiser for the Crossley estate) then, presumably, entered into negotiations with Therieau (executor of the Crossley estate, formerly attorney for Anthony's conservator, Crossley, and scrivener of the deed whereby Crossley had acquired the interest from Mrs. Andreas for no consideration) to purchase the one-half interest in Tract 39 from the estate of Crossley (formerly conservator for Anthony), both, presumably, advised by their legal counsel, Hollowell.

The papers were prepared and laid before the Superior

Court, Riverside County, Indio Division, Hilton H. McCabe (Judge of said court, co-conservator for Crossley's widow, and executor designate under the will of Anthony) presiding.

The purchase was approved. The estate of Anthony Andreas was diminished by \$14,000, and the estate of Crossley augmented by the same amount.

Neither Spiegelman nor the predecessor fiduciaries and attorneys for the estate (including Crossley and his attorney, Therieau) had revealed Anthony's ownership of the half interest as an asset of his estate prior to Spiegelman's petition seeking authority to purchase the other half interest from Crossley's estate, although Therieau had prepared the 1959 deed to Crossley and Anthony Andreas. Exhibit 19.

e. Frank Bogert

Frank Bogert, realtor and former mayor of Palm Springs, served as conservator for the Estate of Edmund Peter Siva from June 8, 1960, until July 15, 1963, when the conservatorship was terminated.

For his services as conservator based largely on negotiating a lease with the Carlotta Estate, the court awarded him fees of approximately \$13,000, and a further fee to Paul King, a real estate broker, in the amount of \$6,182. According to Mr. Bogert, Mr. King split his fee with him. Exhibit 37.

We are of the opinion that this fee-splitting between a broker and a conservator, as well as other similar instances of fee-

splitting by or with fiduciaries, is improper under California law. We suggest that Mr. Bogert's share of these fees rightfully belongs to the Siva estate and may be deemed held in constructive trust therefor. See Bank of America v. Ryan, 207 CA 2d 698, 24 Cal. Rptr. 739.

4. Eugene E. Therieau

Judge Therieau has never served on the Superior Court which administers the guardianship-conservatorship program. Since October 31, 1961, he has served as Judge of the Desert Municipal Court of Palm Springs. Prior to that time he was a practicing attorney in Palm Springs and specialized in Indian matters.

a. The California District Court of Appeals rendered an opinion in 1966 in the case of In re Guardianship of the Estate of Prieto, supra, wherein it was held that broker fees awarded Therieau were illegal. Despite the Prieto decision, Judge Therieau has not voluntarily returned fees awarded and paid to him in four companion Indian estates for these identical services; on the contrary, he has steadfastly resisted efforts by the Government to obtain their repayment and has been instrumental in seeking to obtain an order from Judge Brown ratifying the payment of these fees. A more detailed discussion of the Prieto case and pending litigation to recover the fees here concerned can be found under Section III. E., p. 49, infra.

b. In 1961, Therieau served as attorney for Lawrence Crossley, conservator of the Estate of Joseph Patrick Patencio. In this capacity he participated in the negotiation of a lease with the Tahquitz Trailer Park on behalf of Patencio and three other Indian landowners. Judge

Brown ordered the lessee to pay \$20,000 to Therieau in lieu of the latter's charging fees to the Indians. As stated above, page 27 , the court's authority over the lessee seems questionable. The developer indicated that he felt Therieau would block the lease if payment wasn't made and that his attorney informed him, "That's the way things are done around here."

Despite the "in lieu of" order, Therieau received \$4,000 from the Patencio estate for services which clearly appear to include those rendered in connection with the negotiation of the Tahquitz lease, and \$10,000 from Priscilla Gonzales for representing her in the same matter. Mrs. Gonzales was not under conservatorship and negotiated on her own behalf

When it was pointed out to Therieau that the fee paid by the lessee was to be in lieu of fees from the estates of the lessors, he stated to the interviewers that the \$20,000 fee represented only his services for the Joseph Patrick Patencio estate and that he made an additional charge of approximately the same amount for his services to his other client, Priscilla Gonzales. Therieau did not explain the discrepancy between the \$10,000 fee charged Mrs. Gonzales and the \$20,000 fee which he alleges represented services rendered the Patencio estate, nor did he explain the additional sums paid by the Patencio estate. Exhibit 38.

##### 5. Heavy Involvement of a Few Individuals

It is noteworthy that a few names appear repeatedly in connection with transactions involving Indian property which resulted in



sizeable fees and commissions. As has been shown, conflict of interest situations involving these individuals abound. See e.g., the Clara Bow and Anthony Joseph Andreas cases. Exhibits 18 and 19.

D. Misuse of Conservatorship Proceedings

The following are examples of the ways in which guardianship and conservatorship proceedings are used against Indians for purposes wholly unrelated to their protection or to the preservation of their estates.

1. Estate of Edmund Peter Siva

In a petition filed on October 13, 1967, Mr. Bogert, former conservator for the Estate of Edmund Peter Siva, joined with Siva's former wife, Marlene, guardian of the person of Edmund C. Siva, minor son of Siva, and attorney James Hollowell, as guardian of the Estate of Edmund C. Siva, seeking establishment of a guardianship or restoration of a conservatorship for Edmund Peter Siva. Bogert said he was in favor of the petition but did not know whether he learned of the petition before or after Hollowell filed it. In a newspaper article appearing in the Riverside Press Enterprise under date of December 7, 1967, Bogert was quoted as saying the present proceedings were Hollowell's doing, not his.

Among the alleged grounds for restoration of the conservatorship were failure to meet child care payments and failure to pay a conservator fee of \$6,000 awarded to Bogert for services in connection with the Aztec Palms lease, which was negotiated during his conservatorship and terminated in 1967. Siva felt that this award was unjust,

contending that all services relating to the lease were performed by Siva's attorney, Mr. Simpson, but did not object when the matter first came before the court, since he was seeking termination of his conservatorship and did not wish to antagonize his conservator. This petition was filed despite the fact that under California law a creditor may not apply for the appointment of a conservator.

Prior to the hearing on the petition, the attorneys for Siva apparently determined that it would be in the interest of their client to have the matter heard by a judge other than Brown. They obtained a transfer of the matter to the Riverside division of the court. The petition was denied with dispatch upon the ground that the petitioners were in fact creditors and no sufficient showing had been made to warrant the imposition of a guardianship upon Mr. Siva. Exhibit 39.

It is also worth noting that the cost to Mr. Siva for defending this action is expected to approximate \$5,000.

## 2. Estate of Eugene Segundo

During pendency of a divorce action against his wife, Geraldine, Eugene Segundo petitioned for the removal of James Hollowell as his conservator and substitution of a conservator of his own choice. It was alleged that Hollowell failed to keep Segundo advised of the state of his property and affairs and had furnished certain funds to Geraldine without Eugene's sanction. Geraldine, apparently motivated by the domestic situation, opposed the petition and proposed a corporate guardian or conservator. What

normally would have been a one-day hearing extended over a period of eight months.

Geraldine's attorney requested a fee of approximately \$4,000 from Eugene's estate for his services in opposing Eugene's petition. Not only was Eugene's estate subjected to the \$4,000 claim--which the court disallowed upon objection by the Department's amicus--but also to fees charged by Eugene's attorney and by Mr. Hollowell, who filed a claim for about \$6,000. Although he requested compensation as a conservator, Hollowell's charges covered time spent in attending court proceedings to which he had been subpoenaed and services rendered as an attorney. It is not permissible, under California law, for a conservator to charge fees for legal work. Despite objections by the Department's amicus, Judge Brown awarded Hollowell a fee of \$5,500.

#### E. Fee Splitting and Double Charging

These subjects have been discussed under Section II. C., pages 27, 28, 30, 33, 39, 41, in connection with specific situations and individuals.

#### F. Indian Dissatisfaction

The majority of the adult members of the tribe were interviewed. With few exceptions, they expressed serious dissatisfaction with the program. Primary objections centered around:

1. Lack of knowledge about their estates.
2. Confusion and misunderstanding about their rights.
3. Failure of the program to train them to handle their own affairs.

4. Frustration about not being able to foresee an end to the program.
5. High fees assessed against their estates by the Superior Court.
6. Their exploitation by some guardians, conservators, attorneys, and judges.

One of the reasons the Indians under the fiduciary system have lacked knowledge about their property and affairs is that California law does not require that a ward or conservatee or his parents or family receive adequate notice of proceedings affecting them. Moreover, these conservatorships are unique in that the Indians were given to understand that their conservators would undertake to educate them to handle their own affairs. Exhibit 10.

### III. CORRECTIVE ACTIONS TAKEN

The Task Force has been able during the course of its work to inaugurate some corrective measures. These include:

#### A. Conservatorship Terminations

As of February 5, 1968, five of the 29 conservatorships for adult Indians in existence when the Task Force was established had been terminated. These were for:

1. Leroy Segundo
2. Joseph Patrick Patencio
3. John Damon Andreas
4. Richard M. Milanovich
5. Renona Lopez Pennington

During the eight-year period which preceded the efforts of the Task Force, only two conservatorships had been terminated.

Upon recommendation of the Task Force, concurred in by the Area Director, notice has been given to eight other Indians that the Bureau feels they are able to handle their own affairs and is prepared to assist in termination of their conservatorships if they so desire. They are:

1. Beverly Patencio Diaz
2. Ray Leonard Patencio
3. Mildred Kitchen
4. Belinda Segundo Rodriguez
5. Alana Segundo Norte
6. Winifred Patencio Preckwinkle
7. Priscilla Ann Pete
8. Anthony Joseph Andreas, Jr.

With the assistance of personnel from the Sacramento Area Office, we reviewed the other sixteen conservatorships and talked

with many of the conservators. While we believe that the subjects of these conservatorships require some assistance at this time in the management of their affairs we are of the view that this should be provided by other means.

#### B. Reduction of Fees

Prior to the creation of the Task Force, Bureau of Indian Affairs personnel had not formally participated in court proceedings involving Indian estates. At the request of the court, they had from time to time submitted comments to the judge on certain matters. These comments were not entered on the record and were often disregarded in the awarding of fees.

Following the creation of the Task Force and the appointment of the Regional Solicitor, Sacramento, as Special Assistant to the United States Attorney, a motion was granted whereby the Trust Officer of the Bureau's Palm Springs office was appointed amicus curiae to participate in probate proceedings involving Agua Caliente Indians. The Regional Solicitor was designated attorney of record for the amicus. In this way, the Department for the first time was enabled to participate formally in state probate proceedings involving Indian estates.

Since this procedure has been established, the amicus and his attorney have successfully negotiated reductions in fees claimed by fiduciaries and their attorneys in a number of situations.

Recent efforts to formulate guidelines for distinguishing between ordinary and extraordinary services have met with some success.

A special committee of the Desert Bar Association has been appointed for the purpose of making recommendations as to what should be deemed ordinary and extraordinary services. This same committee has been asked to suggest a fee schedule for attorneys for routine probate matters. However, much remains to be done along these lines if the present system is to be continued, and the modest improvements effected will quickly fade unless provision is made to continue the Departmental activities which produced them.

### C. Control of Trust Funds

When the investigation was launched, the Secretary ordered all income accruing from Indian trust lands retained in the control of the Bureau of Indian Affairs. He authorized its return to fiduciary control at the discretion of the Area Director. Exhibits 6 and 9.

This assumption of control over lease income has required the close attention of the Task Force and the Bureau to assure that the financial needs of the Indians are met. Since the start of this investigation, 14 Indian estates have been restored to fiduciary administration. Since our preliminary report, no further action has been taken to restore additional estates, pending receipt and review of audit reports. If a new system of administration is not established, we recommend that the Bureau continue the work of reviewing the Indian estates with a view to returning administration of those which have been well and economically handled to the fiduciaries.

#### D. Changes of Fiduciaries

Where it is concluded that the estate of a minor or of an adult who is not capable of managing his own affairs has not been well or economically administered, the Bureau should retain control of income accruing and administer the same under individual Indian money accounts until changes of fiduciaries or attorneys can be effected or other arrangements made. This is a task requiring great discretion and consideration of the desires of the individual Indians concerned, but it should proceed without delay.

#### E. Litigation

##### 1. Senci Lease

The Senci lease is the principal matter presently in litigation in which the United States has appeared on behalf of the Indian interests involved.

On April 23, 1963, Secretarial approval was given to the so-called Senci lease. This lease was for a term of 70 years and covered approximately 600 acres of Indian trust lands in Palm Springs which had been allotted to five minor Indians. Due to the death of one of the principals and the resulting inability of the lessee to meet rental obligations, the lease was terminated in December 1965.

The litigation involves a fee or commission of \$50,000 awarded by the court for services allegedly performed incident to the lease by Ernest Dunlevie Associates and Judge Eugene E. Therieau. Four Indian estates have paid in excess of \$17,000 of the \$50,000 fee.



Additionally, Therieau has collected \$4,000 as attorney for the Estate of Lawrence J. Bow for what appear to be the same services for which the \$50,000 fee was awarded. In other words, Therieau claimed and received two fees in this estate for the same services, one as part of the \$50,000 "commission" and another as attorney for the guardian.

The fifth Indian estate concerned appealed the lower court's order directing that it pay a proportionate share of the \$50,000 fee. The appellate court, on June 22, 1966, ruled that the order granting the fee, as well as subsequent orders concerning payment thereof, were improper and illegal. In re Guardianship of the Estate of Prieto, supra. By the time the appellate decision was issued, the Senci lease had been terminated and the remaining four estates had already paid \$21,627.20 in fees to Dunlevie Associates and Therieau.

Subsequently, the guardians of three of the estates concerned filed a petition with the Superior Court in Indio asking that the prior payments to Dunlevie Associates and Therieau be returned.

After preliminary hearings on the petitions to ratify, it appeared to us that Judge Brown could not be relied upon to be entirely impartial in the matter. It was, therefore, decided that the United States should intervene on behalf of the Indians to obtain standing to challenge the judge and appeal if necessary.

The United States entered appearances on behalf of all four estates concerned, filed objections to the petitions to ratify, filed an affidavit of prejudice against Judge Brown, and obtained a transfer of the matter to another judge. The objections were based on the holding of the Prieto case, supra. The Government further petitioned the court to issue orders to Dunlevie Associates and Therieau to show cause why they should not be ordered to return all fees received in connection with the Senci lease.

The petitions for ratification and the Government's objections were heard in Riverside on November 30, 1967, by Judge Leo A. Deegan. Judge Deegan denied the petitions to ratify and issued the requested orders to show cause. The orders have been served upon Dunlevie and Therieau. A hearing is expected to be held soon.

## 2. Association of Conservators, Guardians, and Allottees

We believe that the United States should file suit against the Association of Conservators, Guardians, and Allottees for an accounting and recovery of all Indian monies turned over to the Association, at least to the extent that it cannot be shown that they were used in ways directly beneficial to the Indians. It appears that such monies are now being expended in attempts to vindicate the activities of the Association and its members, a use hardly compatible with the professed purposes of the organization or the interests of the Indians. The Tribal Council, individual

members, and the Area Director have all requested that appropriate action be taken against the Association to prevent further misapplications of Indian funds in its possession. Exhibits 34 and 35.

CONCLUSION

The principal conclusion we draw from our investigation is that the guardianship and conservatorship system under which the property of a majority of the members of the Agua Caliente Band is being administered has been intolerably costly to the Indians in both human and economic terms.

While we must observe also that it has been extremely profitable for a few non-Indians, we would caution against being distracted by this fact from the essential vice of the system which, as stated, is its inordinate cost to the Indians.

It is important to keep in mind that the function of this system, on the economic side, is the conservation, development and production of the Indians' property. It is in terms of the performance of this function that it must finally be evaluated.

Quite apart from consideration of how honestly or efficiently it is administered, a system whose function is the production of property which consumes so large a part of what it produces in administrative expenses, in our view, must be judged aberrant.

On the human side, the function of the system is to equip the Indians to take over the management of their own property and affairs. Judged in terms of the performance of this function, we submit that it has failed even more distressingly than on the economic side. With few exceptions, talks with the adult members of the Band who have been subjected to it disclosed feelings of frustration, disgust,

and despair. They are frustrated by lack of knowledge about the administration of their property by their fiduciaries. They are disgusted by the high costs of the system and what they conceive to be its abuses by some who are instrumental in its administration. They despair because they do not see that any effort is being made to prepare them to take over the conduct of their affairs; because they can see no light at the end of the tunnel.

Even were we convinced that the conduct of all who participated in its administration had been above reproach, and that the fees charged in all cases had been earned, we would still be forced to conclude that the system is a failure in terms of its human and economic objectives.

In our view the Department should have been more aggressive in surveillance of the administration by the court of Indian guardianships and conservatorships, particularly of fees awarded in connection with real estate transactions which required its approval.

Although we believe that the operation of the system has been encumbered by some venality, and that this could have been controlled had the Department taken a broader view of its responsibilities, we are convinced that the essential causes of its failure are inherent in the system itself.

We believe that the courts are not suitable institutions under which to attempt to conduct dynamic and continuing programs for the development of people and the production of property.

We do not intend any disparagement of the judicial system, but only to point out that the functions it is primarily designed to perform are not the kinds which the development of the Agua Caliente Indians as social and economic beings requires. The courts are just not set up to operate dynamic educational and property management programs.

Whatever else is done, we are convinced that court appointed fiduciaries should be completely removed from the administration of the Indians' trust property. The responsibility for the administration of such property is by law assigned to the Secretary of the Interior. There is no need to superimpose upon the trust relationship which exists between the United States and the Indians another fiduciary structure erected on state law. The function of assisting the Indians in the management of their trust lands should be left to the United States so as to eliminate the charging of fees by individuals in connection with its performance.

We are also firmly of the opinion that the establishment of conservatorships for adult Indians should be discouraged. We have grave doubts that Section 4 of the Equalization Act, which speaks of guardians only, contemplated the employment of conservatorships in the discharge of its mandate. Under California law guardians may be appointed for adults as well as minors who are incapable of managing their own affairs. As noted, the standards for appointment of conservators are less rigorous than those for the appointment of guardians. Certainly the practices of routinely

converting guardianships for minors into conservatorships for adults upon the ward's coming of age finds no sanction in the Equalization Act. This practice should be stopped.

As a general rule, unless an adult Indian can be shown to be so incapacitated as to warrant the appointment of a guardian (as distinguished from a conservator), we think the management of his affairs ought be left to him. When an adult desires or is in need of assistance in the management of non-trust property, consideration should be given to the employment of means other than court appointed fiduciaries.

For example, particularly in cases of adults possessed of relatively liquid non-trust assets of considerable value, consideration might be given to the establishment of institutional trusts under agreements tailored to the individual situations. Even in cases of minors and truly incompetent adults for whom guardians of their persons may be necessary, consideration should be given to such arrangements for the administration of their estates to minimize the role, and consequently the charges, of guardians as active managers.

We are convinced that the court administered fiduciary system under which the property of a majority of the members of the Agua Caliente Band has been managed for the last decade has wholly failed their needs and must be replaced or radically revised.

## EXHIBIT 1

## REVIEW OF POLICY, PROGRAMS, AND PROCEDURES RELATING TO THE AGUA CALIENTE RESERVATION WITH PARTICULAR REFERENCE TO THE INVOLVEMENT OF THE PROBATE COURT IN INDIAN MATTERS, 1949-67

This report is a summary review of the background and events relating to the involvement of the Superior Court of Riverside County in the affairs of the Agua Caliente Indians. While the Equalization Act of 1959 gave statutory authority and direction to utilize the court, numerous actions on the part of the Bureau of Indian Affairs, the Department of the Interior, the Congress and the Federal Courts had already involved the Superior Court prior to the approval of the Equalization Act.

## 1955 AND PRIOR YEARS

As far back as the 1940's and perhaps longer, there developed a feeling in governmental circles that the services of the Bureau of Indian Affairs to California Indians should be discontinued. In 1949 the Appropriation Committee in the House of Representatives and the House itself, in enacting the appropriation bill, disallowed funds for the support of the Bureau of Indian Affairs in California for the ensuing fiscal year. Although funds were restored, this action focused attention on California and the Congress let it be known that it expected some prompt action in the direction of termination.

In the Spring of 1950, a new Commissioner of Indian Affairs was appointed who was committed to terminal actions wherever this was feasible. California was high on the priority list. Staff was assigned to develop plans in 1951 and in early 1952 the Department of the Interior submitted a bill to accomplish complete termination within a 5 year span. No exception was made for the Agua Caliente Reservation. The Governor of the State of California endorsed the legislation and hearings were held by the Interior and Insular Affairs Committee. However, no action was taken on the bill in that session of Congress.

The following Congress approved Concurrent Resolution 108, which declared it to be the sense of Congress that special services to Indians should be discontinued at the earliest practical time and the Secretary was directed to submit legislation to this end at the time of the convening of Congress in early 1954 for certain areas and tribes. California was one of the areas specified. A bill was prepared and submitted and hearings held that year. The bill was not enacted. The Agua Caliente tribe was excluded from the bill but only on the commitment that a special bill for that reservation would be presented.

In the meantime, the Sacramento Area staff was directed to move toward termination. As a result, health services were curtailed, welfare services were discontinued, law and order responsibilities were transferred to the State pursuant to the enactment of Public Law 280 in 1953, disposal of Public Domain allotments was stepped up and other actions taken. The policy of termination was enunciated and little doubt remained with regard to the intentions of the Congress and the Department.

The Agua Caliente Reservation has had special problems for many years. Of principal concern was the extended controversy over the allotment process. After an amendment to the Mission Relief Act of 1891 in 1917, steps were taken to allot the reservation. Dissension among the Indians prevented any definite action for several years. In 1938, a suit was brought in Federal Court against the United States to force allotments. These were known as the St. Marie cases. The court held for the defendant United States. In 1940, the Arenas case was filed and was eventually decided in favor of the plaintiff and the Department was directed to proceed with the allotment program. The first allotments were made in 1949 and the others followed. Certain Indians objected to the allotment program and filed the Segundo case. In addition to settling the controversy over specific allotments the decision included a directive to the Secretary to equalize the values of the several allotments. Allotments were made to the contestants and newborn children were allotted currently, as had been the practice after 1949.

In late 1954, the Secretary of the Interior appointed a Citizen's Committee of prominent businessmen, headed by Mr. Floyd B. Odum, to study the problems of the Agua Caliente Indians.



1955-59

The span of years between the passage of the Long Term Leasing Act and the Equalization Act was significant in the history of the Agua Caliente Reservation. Litigation affecting the reservation was concluded, the 50 year leasing authority became law, leasing regulations were changed, the tribe became organized and employed an attorney, the Odlum Committee rendered its report, and the economy of the area took a pronounced upswing.

The Odlum Committee submitted its interim report to the Secretary on April 25, 1955. A review by the Department was transmitted to Mr. Odlum on June 23, 1955. Reconsideration by the Committee after meetings with the Indians and representatives of the Department resulted in its final report dated April 18, 1956. Among other things, the Committee recommended that tribal assets be removed from Federal trust status and transferred to a private trustee, under condition that it be used in part to equalize allotments and for distribution per capita to tribal members. It further recommended that the trust be liquidated within 22 years. It was also recommended that allotted land be transferred to the same trustee. The Assistant Secretary, in his letter to Mr. Odlum of May 21, 1956, stated that "Commissioner Emmons and I have reviewed your report and we feel that it will provide a sound basis for legislative action."

In January of 1956, the Commissioner and Associate Commissioner spent one week in Palm Springs conferring with the Indians, representatives of the City, the Citizens Committee and others. Considerable discussion revolved around the practicality of setting up a private trust as a solution to the land problem. Long term leasing was discussed at length, but no immediate action was taken. There was considerable pressure from the Indians and the lessees who had only 5-year leases or less to convert them to 25 year leases. The Bureau of Indian Affairs was concerned that such abrupt action would be disadvantageous to the Indians because it might well set a pattern of land use which would be detrimental in the long run.

On July 27, 1956, Assistant Secretary D'Ewart sent a letter to the Area Director which outlined the policy of the Department at that time. It stated that (1) the Department intends to seek the enactment of legislation along the general lines of the Odlum Committee recommendations; (2) we shall continue the present policy—which is (a) no leases under the long term leasing act except for the Mineral Springs Reserve, (b) renewals of expiring leases for one-year terms only, (c) new leases for one-year terms only; (3) pending the enactment of such legislation, the Department will authorize the issuance of patents in fee only to Indians who make application and who are determined to be unquestionably competent; (4) the procedures for leasing of minors' lands and for handling rentals or other funds of minors should be tightened up immediately, before the enactment of any new legislation; (5) we understand that the tribe has decided to proceed with the proposal to contract for preparation of a development plan for section 14. We concur in this proposal, and while we do not believe that the development plan can be used immediately as a basis for long term leases it will be useful to the private trustee contemplated under proposed legislation.

The dissipation of minors' funds by the parents had become serious and on March 17, 1955, the Tribal Council expressed its concern in this matter at a meeting on that date. In the summer of 1956, action was taken by this office with the approval of the Commissioner, to have guardians of the estates of several minors appointed by the Superior Court. At the outset, the Court appointed a parent and a bank as co-guardians. During the year 1956, several guardianships were established. The question arose as to whether the guardian could collect lease rentals on behalf of the minor. It was decided at the outset that this could not be done but this was later changed. In the 1957 edition of 25 CFR it was provided that rentals on minors' lands shall be paid to the superintendent with certain exceptions. On September 11, 1957, new regulations were issued applicable specifically to Palm Springs which provided that leases may be negotiated by guardians and leases so negotiated shall provide that rentals may, in the discretion of the Secretary, be paid to such guardians. A number of the Indian parents depended upon the minors' income for family support and were motivated to apply for guardianships after regulations were changed to require lease rentals to be paid to the Superintendent. Additional guardianships were established during 1957.

The Agua Caliente Reservation continued to receive a great deal of attention from the Department, the Commissioners and this office. In early 1957, the staff at Palm Springs was expanded and upgraded. Steps were taken to equalize

the allotments in accordance with the decision in the Segundo case. Equalization appraisals were undertaken in mid-1957. Concurrently, an equalization bill was drafted and discussed with the Band. The Interior and Insular Affairs Committee of the House of Representatives held hearings in Palm Springs on the proposed bill in October of 1957. The Land Use Plan prepared by Victor Gruen and Associates was completed. On March 1, 1957, the Acting Secretary addressed a letter to the Area Director which modified previous instructions to some extent. It stated that general application of long term leasing regulations would continue to be delayed until approval of a master land use and development plan. However, long term leases would be approved under exceptional circumstances.

An item in the Desert Sun newspaper dated October 11, 1957, carried a headline that "Judge Charges Guardians of Indian Minors Lax". This article goes on to say "Superior Court Judge Hilton McCabe charging that guardians of Indian minors have been lax in administration of their duties, yesterday ordered the guardians of 30 minors and incompetents of the Agua Caliente Tribe to file within three weeks in his court a complete accounting." . . . The Judge went on to explain the recent changes in the leasing regulations wherein the guardians could assume additional responsibilities.

On February 21, 1958, Judge Hilton McCabe of the Riverside Superior Court, called a guardianship conference related to Indian land in Indio, California. Present at the conference were Associate Commissioner H. Rex Lee, Leonard M. Hill, Robert Cole, Credit Officer from the Phoenix Area, representatives of title insurance companies, local bankers, attorneys and others. The discussion covered many aspects of the Palm Springs problems but was concerned primarily with development of Indian land. Mr. Lee spoke at length on many aspects including the fact that the Congress had set termination as the goal in California. He stated that ". . . from an overall policy viewpoint that we are trying to channel these things into normal channels, and we want the court, the guardians, to take just as much responsibility as we, under the law, can possibly give them, so one of these days when Congress does pass a piece of legislation saying you get out of California this isn't going to be a sharp cut-off, the machinery will all be set up, and is going to be operating normally. I think that is the way any kind of termination has to be, it has to be an orderly transition. That is why we are encouraging this thing to move in normal channels, as you know." In discussing the guardianship situation in relation to California, Mr. Lee went on to state that "Now, I am delighted to hear these people feel that in California you have a practical law and a practical means of approaching this problem." In his closing statement, Mr. Lee said that, "We appreciate these guardianships, and I'm sure they will work out, Judge McCabe, if we sit down and face up squarely to the problems." Thus in early 1958, the Bureau was in full accord with the guardianship arrangements.

Later that year the Commissioner authorized the Director of the Palm Springs Office to petition the Court to establish Indian guardianships. In the summer of 1958, in further attempt to involve the business community in Indian land development, Mr. Lynn Lloyd, a former bank trust officer, was hired as a consultant to review long term leases. Guardianships continued to be established.

Until the Equalization Act was adopted in September of 1959, the Department and the Bureau issued regulations and took other actions to proceed with the equalization process in accord with the decision in the Segundo case. After the Act was passed, renewed efforts were directed toward equalization in accordance with the Act.

#### 1960 AND AFTER

It is interesting to note that in a letter dated April 13, 1960, from Eileen Miguel, Chairman, Tribal Council, Agua Caliente Band of Mission Indians to Congressman D. S. Saund, it is stated that: "Section 4 of the Equalization Bill provides that the Secretary shall request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who, in his judgment, are in need of assistance in handling their affairs in accordance with applicable state laws before making any equalization allotment or payment to such persons. This Section had been requested by the tribe because it did not want the Secretary to arbitrarily make a determination concerning capacities of individual members without being subject to those limitations of competency embodied in the California law. In the new regulations proposed by the Secretary, designated as C.F.R. 124.5, the Bureau of Indian Affairs has expanded the admonition of the Congress to the Secretary to include the appointment of a conservator. This has

caused considerable anxiety among the members of our tribe because it is difficult for us to see why the Bureau has added such a provision if it is acting from proper motivation.

"At a full tribal meeting, questions concerning this addition were addressed to Mr. Rex Lee who replied no one should become excited since the Bureau had possessed this power for years. Hence our members repeated the question in a different manner by merely asking why it was being included as part of the Equalization program if it has always possessed such a power. Quite frankly, it is our belief that it should be deleted from the Equalization instructions, thereby leaving the Secretary with the right of requesting the appointment of conservators for reasons unrelated to equalization when in his judgment such is necessary for the best interest of the Indian."

Prior to September 21, 1959, the date of the Equalization Act, there were 61 guardianships and conservatorships established. From the foregoing it appears that the Equalization Act, rather than introducing the concept of guardians for Indian minors and adults in need of assistance, actually validated what had been the policy of the Department and the Bureau for a considerable period.

However, there were a number of minors who had no lease income or for other reasons hadn't had guardians appointed for them and a number of adults for whom it was deemed advisable to set up protective arrangements. In April of 1960, an attorney from the Regional Solicitor's office went to Palm Springs and with the Director of that office, who was Raymond W. Jackson at that time, interviewed both the minors and adults in question and explained what was involved. The Indians were informed of their rights to request appointment of guardians or conservators of their choice and in most cases it is believed that their choices were honored by the court where this was feasible. However, it is also true that a number made no choice and left the choice to the discretion of the court. In the great majority of cases, the petition to the court was filed by the person chosen by the Indian or other third party. In only 2 or 3 instances did the Bureau of Indian Affairs file the petition. In two instances the Bureau of Indian Affairs requested appointment of conservators but the adults involved objected and appealed the decision. Their appeals were upheld and no conservators were appointed.<sup>1</sup> Subsequent to the initial appointments after the Equalization Act was passed, the Bureau of Indian Affairs took no part in the guardianship-conservatorship appointment process, although there were numerous actions taken in this respect. The change in status when a minor reached his majority generated a substantial number of such actions. It wasn't until the spring of 1967 that any formal representations were made to the court when the Director of the Palm Springs office communicated with Judge Merrill Brown with respect to one James Hollowell, who had petitioned the court for appointment as guardian to replace one who resigned. This triggered the current Departmental investigation.

Some attention to attorney fees was given by the Department when the Solicitor in his letter of December 4, 1961, corresponded with Raymond C. Simpson in connection with his fee arrangements with lessees of Indian land. Further correspondence emanated from the Solicitor's office to Mr. Simpson in the following year.

The Area Office became concerned with the amount of fees awarded to attorneys, guardians and conservators and completed a statistical summary of such awards. This information was transmitted to the Commissioner's office in 1962. The House Committee on Government Operations, to which apparently complaints had been relayed, sent investigators in early 1962 to Palm Springs ostensibly to inquire into leasing procedures employed by the Bureau. In the course of the inquiry the investigators received complaints from a number of Indians regarding the manner in which the guardianships and conservatorships were being handled by the Superior Court. As a result of these inquiries the committee addressed a letter to the Secretary requesting his reply to certain questions concerning the guardianship and conservatorship operations. The Secretary replied in his letter of August 13, 1962, copy attached.

A review was made in early 1963 by a member of the Washington staff, Mr. Dinsmore Taylor, and as a result the following letter was addressed to the Dawson committee: (See exhibit 2.)

In view of the position taken by the Department, this office felt constrained to remain aloof from Superior Court proceedings in this matter.

<sup>1</sup> See copies of letters attached.

In the summer of 1963, Judge Hilton McCabe conceived the idea that it would be helpful if he and the Area Director issue a joint letter to all conservators and guardians outlining their duties and responsibilities. The advice of the Commissioner's office was requested and it was decided that such a joint statement was inappropriate and none was issued. In the meantime, certain rumors were extant to the effect that the Bureau was contemplating curtailing the activities of the conservators and guardians in dealings with trust land, whereupon the Director of the Palm Springs office addressed a letter to the Chairman of the Conservators and Guardians Association explaining that this was not the case and that the Bureau of Indian Affairs expected them to perform as heretofore.

In early 1964, the Tribal Council transmitted an extensive list of grievances to the Commissioner concerned mostly with the manner in which probate matters involving conservatorship and guardianship were being handled by the Superior Court. On October 7, 1964, Commissioner Nash responded to the grievance presentation. Prior to that date, in August, Deputy Commissioner Crow and Associate Solicitor Hyden, along with area office representatives, met with and discussed the grievances with the Tribal Council. Associate Solicitor Hyden, prior to his visit, had issued an opinion as to the legality of contracts with real estate brokers, attorneys and others which called for the payment of fees from future earnings from trust land. Generally it was his opinion that such contracts were invalid unless approved by the Secretary and that persons collecting fees under approved contracts were liable for collections made illegally. There was a general conclusion reached that the Department and the Bureau should exercise closer surveillance of the probate operations and it was decided to employ a Resources Trust Officer to be attached to the Palm Springs office who would work with the probate court and the guardians and conservators in an attempt to legalize operations and to work informally to prevent excessive award of fees, and to inquire into past operations. Mr. Robert Cox was appointed to this position effective January 24, 1965, and was transferred in June of 1966. Mr. Cox worked closely with the Superior Court, the conservators and guardians, and the attorneys on current matters. In a number of cases fee requests were reduced and in a few instances previous awards yet unpaid were compromised. He also reviewed all court approved transactions for the calendar year 1965 and his report was transmitted to the Commissioner on July 19, 1966. In his opinion, fees awarded by the court were excessive and he recommended major changes in handling guardianship and conservatorship estates.

The Area Director concurred in part with his recommendation, as did the Regional Solicitor. No action to change procedures was taken by the Bureau or the Department until May 1967, when the Secretary announced that an investigation of the matter would be made. He appointed a task force to operate locally with Mr. Robert Cox as Chairman. The task force is in process of completing its inquiry. For an interim period lessees were directed to make rental payments to the Bureau for disbursement to the beneficiaries. The Regional Solicitor was designated a Special Assistant U.S. Attorney to permit his participation in court proceedings. Several conferences have been held with the Tribal Council at which problems were discussed and the Council's views ascertained.

It was not possible in this short review to note all of the events concerning this subject over the past several years, and no doubt important items have been omitted. However, it is thought that the highlights have been included and sufficient detail presented to give the reader an insight into what occurred.

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#### EXHIBIT 2

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D.C., July 5, 1962.*

HON. STEWART LEE UDALL,  
*Secretary of the Interior,  
Department of the Interior,  
Washington, D.C.*

DEAR MR. SECRETARY: At my direction, members of the staff of the Committee on Government Operations have been looking into the long term leasing of Indian

land in the area of Palm Springs, California. The field work on this study has been completed and a report to me is being prepared.

During the course of the staff investigation, a number of persons, including employees of the Bureau of Indian Affairs, indicated considerable concern regarding the fees being allowed to the conservators and trustees of the Indian estates. Questions were also raised regarding the designation of conservators and trustees and the attempts of the local court to force lessees to pay conservator's and trustee's fees either when or after the leases are approved.

We realize that the appointment of conservators and trustees with the approval of their fees are currently within the jurisdiction of the local court. However, it would not be unlikely that the existence and continuance of any irregularities or improprieties in connection with these matters might result in severe criticism of the Bureau of Indian Affairs and the Department of the Interior. Consequently, we believe that it would be prudent for the Department of the Interior to make a very careful and thorough study of these matters.

The study would, we believe, include the following:

1. How the trustees and conservators are selected.
2. Possible concentrations of trusteeships and conservatorships in certain individuals and corporations.
3. Relationship between the appointing judge and the conservators and trustees.
4. Relationship among the conservators and trustees. This should include a study of the newly formed association of conservators and trustees, the assessment of association fees against the estates, and the relationship of the Indians to the association.
5. Relationship between the conservators and trustees and actual and prospective lessees, real estate agents, brokers, etc.
6. The amount of the fees approved to the conservators and trustees and the concentration of such fees in certain individuals.
7. The reasonableness of the fees in relation to the amount of work performed by the recipients in earning them.
8. The extent to which there has been success or failure in the efforts of the local judge, the conservators and the trustees in forcing lessees to pay fees which are properly chargeable against the Indians' estates.
9. The reasonableness of attorneys fees and other such fees charged against the estates.
10. The relationship between the conservators, trustees and their attorneys on the one hand and local public officials.

It would be appreciated if you would let the Committee know whether the Department of the Interior will undertake such an investigation. If it does, the Committee would certainly appreciate being kept informed of its results.

Sincerely yours,

WILLIAM L. DAWSON,  
*Chairman.*

AUGUST 13, 1962.

HON. WILLIAM L. DAWSON,  
*Chairman, Committee on Government Operations, House of Representatives, Washington, D.C.*

DEAR MR. DAWSON: We have given careful consideration to your letter of July 5 in which you suggested that this Department investigate the appointment and performance of conservators and trustees for individual members of the Agua Caliente Band of Mission Indians of Palm Springs, California, appointed by and under the supervision of a California State Court.

As you know, judicial supervision over these particular estates represents an administrative effort to use existing legal institutions rather than create parallel and duplicating Federal guardianship machinery. As such, and recognizing the Department's residual responsibility to the Indian wards, it is incumbent upon us to assure that the fees and expenses assessed against the estates are not excessive or unreasonable. Consequently, it is entirely appropriate that the matters covered by Items 4, 6, 7, 8 and 9 as outlined in your letter be reviewed by the Department. This will be undertaken promptly and our conclusions made available for your consideration.

On the other hand, it is with considerable regret that I find it necessary to dissent from your apparent view of Federal responsibility concerning the other matters mentioned in your letter. In my judgment it would be highly improper for an executive agency of the Federal establishment to generally investigate or

otherwise question the integrity of State judicial administration. The estates of Palm Springs Indians are administered in the same manner, under the same laws and through the same judicial officers as would be the case for any of the other 16 million citizens of California whose affairs become subject to court supervision. This is entirely consistent with the general objective of bringing the Indian population into the framework of American society. As I view it, our responsibility rests with the assurance that Indian estates are properly protected against waste or dissipation. This is adequately guaranteed by the substantial fidelity bond which must be furnished by every person appointed to act as conservator or trustee under court supervision.

If the information brought to your attention is considered to reflect seriously upon the administration of California justice, the only proper course would seem to be that of placing it before the proper State Government authorities for proceedings in accordance with its law.

You will be informed of the results of our review of the study concerning fees after it has been completed.

Sincerely yours,

STEWART L. UDALL,  
*Secretary of the Interior.*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON GOVERNMENT OPERATIONS,  
Washington, D.C., August 22, 1962.

HON. STEWART L. UDALL,  
*Secretary of the Interior,*  
*Department of the Interior,*  
*Washington, D.C.*

DEAR MR. SECRETARY: We have received your letter of August 13, 1962, replying to the Committee's letter of July 5th, both dealing with the handling of the lands of the Agua Caliente band of Mission Indians at Palm Springs, California. We look forward to receiving the results of your review based upon Items 4, 6, 7, and 9 of the July 5th letter.

On the other hand, we believe that the hands off attitude of the Department with respect to the other items in the July 5th letter is not well advised. Administrators and conservators of the Indians' estates were appointed pursuant to Section 4 of Public Law 86-339 of September 21, 1959 (79 Stat. 603). That section reads:

"The Secretary shall request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who in his judgment are in need of assistance in handling their affairs in accordance with applicable State laws before making any equalization allotment or payment to such persons."

We are informed that following the enactment of this law agents of the Bureau of Indian Affairs played an extremely active part in persuading various Indians to consent to the appointment of guardians. Under these circumstances, the Department of the Interior cannot divorce itself from responsibility in connection with them.

The assertion that you have assurance that the Indian estates are properly protected against waste or dissipation because of the conservators' and trustees' fidelity bonds ignores the fact that such waste or dissipation must be detected and proved before collections can be made upon the fidelity bonds. Consequently, the existence of fidelity bonds provides no assurance against waste or dissipation. They merely provide a source of funds to furnish compensation when waste and dissipation are proved.

For the reasons stated above it is suggested that it would be prudent for the Department to reconsider the limitations placed upon its current investigation and undertake to look into all of the matters raised in the July 5th letter.

Sincerely yours,

WILLIAM L. DAWSON,  
*Chairman.*

SEPTEMBER 11, 1962.

HON. WILLIAM L. DAWSON,  
*Chairman, Committee on Government Operations, House of Representatives,*  
*Washington, D.C.*

DEAR MR. DAWSON: Thank you for your letter of August 22, 1962, again referring to the lands of the Agua Caliente Band of Mission Indians at Palm Springs, California.

You may be certain that our review at Palm Springs will be of such scope as to ascertain whether there is occurring any waste or dissipation of these Indian trust estates.

Sincerely yours,

JOHN A. CARVER, Jr.,  
*Assistant Secretary of the Interior.*

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., July 9, 1963.*

HON. WILLIAM L. DAWSON,  
*Chairman, Committee on Government Operations, House of Representatives,  
Washington, D.C.*

DEAR MR. DAWSON: Reference is made to your letters of July 5 and August 22, 1962, and our acknowledgments of August 13 and September 11, all relating to certain aspects of the administration of the estates of individual members of the Agua Caliente Band of Mission Indians of Palm Springs, California, by guardians and conservators appointed by and under the jurisdiction of the superior court for the State of California.

In this interchange of correspondence we agreed that in making use of existing administrative facilities offered by the California courts, we had the responsibility of ascertaining that the fees and other expenses charged against Indian estates were not excessive or unreasonable. To that end, representatives of the Department were instructed to conduct the necessary studies which would enable us to make an enlightened review of the matters outlined in Items 4, 6, 7, 8, and 9 of your letter of July 5 and to determine whether there is occurring any waste or dissipation of the Indian trust estates.

We now have had an opportunity to complete our study. Our findings, with specific reference to the items mentioned above, follow:

Your *Item 4* relates primarily to the newly formed Association of Conservators, Guardians and Allottees of Agua Caliente Indian Lands and Estates, the assessment of association fees against the estates, and the relationship of the Indians to the association.

The formation of the association was the outgrowth of an idea presented informally to a group of conservators and guardians by the superior court judge sitting permanently in the Indio Division of the Riverside County Superior Court and who hears a majority of the Indian conservator and guardian cases. In interviews with the judge, local officials of the Bureau of Indian Affairs, representative Indian landowners, and several corporate guardians and/or conservators specializing in and experienced in the field of trustee management, the need for such an organization was repeatedly stressed.

The main purpose to be served by the association is to coordinate the development of the Indian land represented by its members to its best and most profitable use. The association proposes an active promotional campaign, possible nationwide in scope to attract responsible investors. It envisions an effective and authoritative role in representing the best interests of its landowners before public bodies on such matters as zoning, street right of way proposals, and long-range planning for flood control. Instances were cited where both the Flood Control District and the municipality of Palm Springs sought to treat individual Indian lands on a less favorable basis than other lands within the same area.

Admittedly, there was not a complete unanimity among the tribal organization, the Indian landowners, nor even among the employees of the Bureau of Indian Affairs as to the worth of the conservator-guardianship organization.

An association such as this could serve a very beneficial purpose and be a strong voice in representing the Indian landowners whose properties are still undeveloped. Particularly would this be true in those instances where, because of conflicts of interest between tribally owned and individually owned lands, neither the Agua Caliente Tribe nor the Bureau of Indian Affairs is in a position to speak solely for this class of land ownership. Furthermore the association, if properly managed, could be far more effective in attracting the interest of potential investors for the development of the Indian lands to their highest and best use, than any of the facilities now existing.

Considering the objectives and based on present limited experience, a fee of one-tenth of one percent of the appraised value of an estate, which is being allowed by the court, may not be unreasonable. The books of the association

are open to audit by representatives of the Bureau of Indian Affairs and should the collection of these fees prove excessive or produce no real benefits within a reasonable period, the Bureau has been directed to so advise this Department and we can at that time again review our position on this matter.

*Items 6, 7, and 9* all involve the question of the reasonableness of the fees being allowed to the conservators and guardians and to their attorneys, and will be treated together.

Our study covered an examination of the court files for all pending estates, with a compilation of the amounts of the fees allowed the fiduciaries and their attorneys and a compilation of the names of the persons or corporations to whom the fees were paid.

Approximately one out of four of the pending cases, selected at random, were then subjected to a detailed examination which included an analysis of the work involved on the part of the fiduciary and his attorney, the fees allowed, and the factual showing submitted in support of the fees requested. In addition, every non-Indian conservatorship or guardianship proceeding instituted in Riverside County in the past five years was examined to ascertain the comparability of the fees allowed as against those allowed in Indian estates.

Although, just by looking at the bare record, there may be a number of instances where fees appear to be high, yet after a close analysis of the services in fact rendered, it cannot be said that they are unjustifiably so. The services, the fiduciaries and their attorneys are called upon to perform are, on the whole, far from routine. They involve the exercise of land development and land management skills, the exercise of sound judgment in advising on problems arising from the operation of business enterprises, the prudent handling of funds for persons unaccustomed to income of the size they have suddenly begun to enjoy, the consumption of endless hours attending meetings of public and semi-public bodies, and, in many cases, almost daily consultations with beneficiaries and members of their families. Intricate legal problems are oftentimes involved.

One important difference present in these proceedings but absent in the ordinary non-Indian estate proceeding, is that more often than not the guardian or conservator of the Indian estate finds himself acting unofficially in the capacity of a personal guardian and he may be called upon any time of the day or night to assist the ward in resolving personal difficulties. These extra services have involved, among others, such matters as traffic and criminal law violations, marriage annulments, charges of breach of peace, finding foster homes and providing for the future welfare of minor children neglected or even abandoned by parents who are under conservatorship, school reinstatements, seeking proper occupational training facilities for wards, providing psychiatric care for wards, and involvement with the Selective Service. None of these responsibilities is a part of the management of trust property and yet innumerable hours of the guardian's or conservator's time is spent on such matters.

In hearing petitions for the allowance of fees, the investigation disclosed that the court was fully informed as to the nature and extent of the services performed. In practically all instances, the record is fully documented with detailed itemizations, some running ten to twelve pages in length. Hearings have been set by the court seeking expert evidence as to the value of some of the more technical services for which fees were claimed. There are instances in the court records where after the hearing, the court has reduced the amount of the fee requested. It was also found that despite the volume of work involved or the extent of the responsibility exercised by the fiduciary or his attorney, annual fees of a rather nominal amount were allowed by the court during those periods when the assets or the income of the Indian beneficiary were insufficient to permit the payment of any greater amount. It might be added further that there was no discernible difference in the setting of fees, irrespective of which one of the three Riverside County Superior Court Judges made the allowance. Finally, the fees in Indian conservatorships and guardianships were found to be generally commensurate with the fees allowed in non-Indian cases involving comparable values.

From all of this, it is our conclusion that a charge that the fees are unreasonable or excessive cannot be supported.

A considerable proportion of the estates are being administered by corporate fiduciaries. These are expert facilities and offer the most experienced estate management services available. There are only a limited number of these institutions having offices in the area. In all cases, corporate or individual, in selecting a representative, the court must give consideration to the nominations made by adult Indians, both for themselves and for the estates of their minor children.



The record discloses that there have been instances where the court has been able to persuade petitioners to agree to the appointment of more qualified persons than those first nominated. The several individuals who are acting as guardians and conservators for a number of estates are for the most part competent business or professional men in the community who were nominated by the Indians because of special trust and confidence reposed in them. Many times such relationships of confidence arose long years before the institution of the conservatorship or guardianship proceeding. So far as we have been able to determine, the court has been conscientious in the exercise of this responsibility.

Item 8, the matter of split fees, is the one field where, on occasion, the highest ethical standards have not been always observed. We did find cases where there had been a sharing of fees or where compensation had been sought from lessees. This practice is not condoned by this Department and our views have been made known to the judge and to the conservators and guardians who have indulged in such activities. The local practices in this regard are now being re-examined by those concerned, and we have been given to understand that these parties will hereafter adhere to procedures more strictly in accord with ethical standards and which do not offend conflict of interest concepts.

Summarizing all that is said above, we find:

a. The fees being allowed to conservators, guardians, and attorneys, when all the facts and circumstances are carefully considered, are neither excessive nor unreasonable.

b. Under the circumstances existing in the Palm Springs area, we do not believe there is any unwarranted concentration of fees.

c. The newly formed association of conservators and guardians can serve a beneficial purpose if properly administered.

d. There have been past instances of questionable practices involving fee splittings and other similar arrangements.

e. There is no evidence of waste or dissipation of the Indian trust estates arising out of the conservator-guardianship proceedings under review.

We fully share your concern that there be no maladministration of these estates. In the one area where we found that criticism might be justifiably leveled (your Item 8), we have registered our disapproval and have taken appropriate steps to preclude repetitions in the future. The effectiveness and appropriateness of the Association of Conservators, Guardians and Allottees of Agua Caliente Indians Lands and Estates will be evaluated periodically. Finally, to guard against the possibility of irregularities or improprieties in the matter of fee allowances in the future, including payment to the Association, we are arranging for a review by representatives of the Department's Solicitor of the annual and final reports filed by conservators and guardians and for representation at the hearings for the setting of fees, should such latter action ever be deemed necessary or advisable.

Sincerely yours,

JOHN A. CARVER, JR.,  
Assistant Secretary of the Interior.

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EXHIBIT 5

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SOLICITOR,  
Sacramento, Calif., May 12, 1967.

*For use of Solicitor's Office only*

Subject: Background briefing re pending conference on Agua Caliente Indian conservatorship and guardianship problems.

As you are aware, the problems here concerned are not new and have been under consideration by this office and the Commissioner of Indian Affairs for a number of years. Over this period of time various investigations, studies, and recommendations have been made. See, for example, Commissioner Nash's letter to the Chairman of the Agua Caliente Tribal Council dated October 7, 1964; the report of June 10, 1966, of Robert L. Cox, Resources Trust Officer for the Palm Springs Bureau of Indian Affairs office; recommendations of Leonard Hill, Area Director, Sacramento Area Office, and Frank B. Horne, Regional Solicitor, Sacramento Region, as attached to and set forth in Mr. Horne's memorandum to the Associate Solicitor, Indian Affairs, of July 20, 1966; and more recently the re-

quest of the Commissioner of Indian Affairs to Mr. Hill by letter of January 18, 1967, for a supplemental investigation and recommendations.

In mid April of this year I was requested by Mr. Homer B. Jenkins, Director of the Bureau of Indian Affairs Palm Springs office, to confer with him concerning a recent order from the State court barring Bureau of Indian Affairs representatives from taking active part in reviewing and commenting on matters and fees involving conservatorships and guardianships of the Agua Caliente Indians.

After generally familiarizing myself with the matters contained in our files I decided to personally look into the situation in Palm Springs. For this purpose, along with Mr. Berkson of my staff, I went to Palm Springs and spent several days (May 3-5) interviewing various people and perusing several files in the Palm Springs Indian office. During our stay in Palm Springs we attempted to and I believe succeeded in interviewing at least one spokesman for each of the various interests involved.

As a result of the foregoing, I have concluded that the Palm Springs situation has again reached the crisis stage and, in my opinion, is in need of immediate attention and action by the Department to forestall what may soon become a public scandal reflecting adversely not only upon the Department generally but also upon the Solicitor's office if we fail to act in these circumstances.

In summary, these are my conclusions:

(a) The Agua Caliente Indians are, generally speaking, continuing to be victimized by various individuals who are directly involved in the guardianship and conservatorship procedures set up at the request of the Department and ostensibly under the supervision and guidance of the California State courts.

(b) The Indians, due to a variety of reasons, are unable to extricate themselves from this situation without government assistance, either Federal or State.

(c) This situation has become practically common knowledge in the Palm Springs area and is on the verge of public exposure through the press or the courts as evidenced by recent visits and inquiries from the Los Angeles Times and American Civil Liberties Union.

In my view the Department should and does have a continuing interest in the administration of these fiduciary relationships, which were in the main instigated at our request, albeit pursuant to Congressional direction.

In the light of the foregoing I intend to recommend that immediate consideration be given to the following:

(a) The appointment of a Secretarial task force, including representation from the Bureau of Indian Affairs, the Solicitor's office, and the Agua Caliente Tribe to investigate this situation in detail and make recommendations for corrective procedures, including possible legislation.

(b) In the interim, I suggest that:

(1) we seek the cooperation of the Agua Caliente Tribal Council to work with the Palm Springs Bureau of Indian Affairs office to provide legal and financial advice to the Indians on personal matters in order to avoid claims for extraordinary fees in connection with the guardianships and the conservatorships.

(2) that we make a formal request to the Superior Court to appoint a representative from the Bureau of Indian Affairs and the Agua Caliente Band as *amicus curiae* for the purpose of reviewing and commenting on fees, petitions, and other proceedings involving conservatorships or guardianships of Agua Caliente Indians.

(3) that the position of Resources Trust Officer in the Palm Springs Bureau of Indian Affairs office, which is currently vacant, be filled by someone with legal training, and that he be the Bureau of Indian Affairs representative designated as *amicus*.

(4) that we explore the possibility of seeking a change of venue from the courts sitting in Indio to those sitting in Riverside.

(5) have one or more attorneys from the Regional Solicitor's office designated by the Department of Justice to represent the Bureau of Indian Affairs and/or the Indians in State court proceedings involving these matters where necessary.

CHARLES R. RENDA,  
*Regional Solicitor, Sacramento Region.*

Mr. EDMONDSON. Our first witness here this morning, and I am going to ask him to step to the microphone which has been reserved for witnesses, is the chairman of the tribal council for the Agua Caliente Band of Mission Indians, Mr. Joseph Patrick Patencio.

Mr. Patencio, would you move to the witness stand and take with you whomever you please from your tribal organization, and would you please present the other members of the tribal council who are here and available for questioning in connection with the tribe's testimony.

Mr. PATENCIO. Thank you, Mr. Chairman. First, I would like to introduce the vice chairman, Mr. Lawrence Pierce, a member, Mr. Raymond Patencio, secretary of the council, Mr. Peter Siva, and the other member, Mr. Leroy Segundo.

Mr. EDMONDSON. Would you identify also, the—

Mr. PATENCIO. The tribal attorney, Mr. Raymond C. Simpson.

Mr. EDMONDSON. Fine. Would you proceed.

**STATEMENT OF JOSEPH PATRICK PATENCIO, CHAIRMAN OF THE TRIBAL COUNCIL OF THE AGUA CALIENTE BAND OF MISSION INDIANS; ACCOMPANIED BY RAYMOND C. SIMPSON, ATTORNEY FOR THE TRIBAL COUNCIL OF THE AGUA CALIENTE BAND OF MISSION INDIANS**

Mr. PATENCIO. Mr. Chairman, and members of the committee, my name is Joseph Patrick Patencio. Recently, I was elected chairman of the tribal council and in that capacity, I would like to state that in conservatorship relief, a number of cases now dominate the picture and the main issues now become somewhat obscure. After all, if just the emotions take over, no constructive purpose would be shown at this time in my judgment so I will stick directly to the bill at hand, which is H.R. 17273, with the understanding that if additional testimony on my part is considered necessary, it may be given at the later hearings contemplated for Washington, D.C., where either rebuttal or further positive testimony might be given.

After passage of the Equalization Act a problem arose from a provision of section 4 which required that the Secretary of the Interior, or his authorized representative, should request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who, in his judgment, were in need of assistance in handling their affairs, and that this should be done according to applicable State laws before the Secretary could make any equalization allotment or payment to such persons. If only a few members of our tribe had been affected by section 4 of the Equalization Act, perhaps no one would have become aware of the present problem, but at the time of the passage of the act, nearly 80 percent of our members were minors. This meant that the superior court for Indio was placed in a position of direct control and supervision over most of our members. It is important to note that shortly after the passage of section 4 some of the Indians themselves complained, which tends to explain that at that time, which is 4 years ago, we had the same problems we have now.

Section 4 of the act was originally intended for the supervision and control over a minor's estates and I should repeat at this time, nearly 80 percent of our band are under the 21 years of age bracket. In application, section 4, which only called upon the Secretary to request the appointment of guardians, went much further. For instance, the members of our band never intended to have guardians for adults appointed

by the superior court unless the Indian was, in fact, legally incompetent.

Mrs. Miguel, as chairman of the tribal council, wrote to Congressman Saund at that time, for the purpose of objecting to the inclusion of the word "conservatorship" in the proposed Federal regulations. Mr. Simpson, in his capacity as tribal attorney and after direction of the tribal council, wrote to Congressman Saund, and this is what he said:

Mr. SIMPSON (reading) :

This language accepted by the Congress made it clear that the guardianship law set forth in the Probate Code for the State of California would be the guide. Hence, since the guardianship law in its application is restricted to minors and to adults who have been judicially decreed to be incompetent, it follows that competent adults would not have guardians appointed. In promulgating their regulations, the Bureau under the New section designated by it as CFR 124.5 added a new phrase to the language which had been approved by the Congress. That phrase consisted of two words "or Conservator".

As you and I know, there was no testimony whatsoever before the Congress concerning the need for conservators. Some people are inclined to loosely describe guardians and conservators as being one and the same. This is not correct because as I have already indicated, the law pertaining to guardianships would not result in the appointment of a guardian for a competent adult. In fact, it was for this very reason the California Legislature recently added an entirely new section to the Probate Code providing for the appointment of a conservator if a competent adult person was in need of assistance in the handling of his affairs. The law was passed primarily for the benefit of elderly people who did not wish to be subjected to the stigma of incompetency but who candidly admitted that their physical condition placed them in need of assistance in the handling of their affairs. Hence, they were willing to relinquish 'control' over their estate to a third party which the law permitted them to personally nominate if they so desired.

In carrying out its plan under equalization regulations, the Bureau of Indian Affairs has already determined that practically every adult person who will receive additional land by reason of the equalization bill, should have a conservator appointed. This decision has been made without regard to whether the adult person was competent and has been based upon the rather broad conclusion that the competent adult Indians should have an outsider controlling their estate.

Mr. EDMONDSON. This was a quote from your letter to Judge Saund and not from Judge Saund; is that correct?

Mr. SIMPSON. That is correct, Mr. Chairman.

Mr. PATENCIO. It must be realized that the burden of proving incompetency can be extremely difficult so the superior court and the Bureau of Indian Affairs devised a new gimmick in order to control nearly all Indian estates.

The members of this committee will note if they merely read section 4, that it contains no reference to appointment of guardians. Nevertheless, in its application, both the Bureau of Indian Affairs and the superior court expanded it to embrace a new California law known as the conservatorship law.

Our Indians still believe that if an adult Indian is non compos mentis, or incompetent, he should have a guardian appointed, but also firmly believe that Indians, like all other persons, should be entitled to the presumption that they are competent to handle their own affairs upon reaching 21 years of age, and that this presumption should never be disregarded. An Indian upon reaching his majority, should be given a chance to handle his own affairs and if his performance record thereafter shows legal incompetency, then a request could be made for an appointment of a guardian. Since the Bureau of Indian Affairs and the

superior court did not share this view, all Indian estates of minors under superior court-appointed guardians were almost automatically placed in the hands of a conservator when the Indian reached 21 years of age.

This committee is no doubt completely aware of the task force report which graphically illustrates both the undesirability and the costly nature of the conservatorship problems to the Indians. Our tribal council feels so strongly opposed to the continuation of the conservatorship system that on March 8 of this year they passed Resolution No. 846 opposing the passage of the original Tunney bill, H.R. 13516, which in practically every section referred to the conservators. Mr. Tunney introduced that bill because of complaints received from tribal delegates, our tribal attorney, and the findings set forth in the first Cox report which had collectively caused him to become aware of the shirking of responsibility by the Bureau of Indian Affairs, of the administrative abuses by the superior court at Indio, and the somewhat shockingly high administrative costs which had been placed upon Indian trust estates. I would now like to make our Resolution No. 846 a part of the official records by having Mr. Simpson read it to you.

(Agua Caliente Band of Mission Indians, Palm Springs, Calif., Resolution No. 846 was read by the tribal attorney, as follows:)

Mr. SIMPSON (reading).

Whereas the Congress of the United States in passing Section 4 of the Act of September 21, 1959 (73 Stat. 604; 25 U.S.C. 954), did require that the Secretary of the Interior appoint guardians of the estates of all the minor allottees of the Agua Caliente Band of Mission Indians and for those adult allottees thereof, who in the Secretary's judgment were in need of assistance in handling their affairs and did request such appointments in accordance with applicable state laws before making any equalization allotments or payments to such persons; and

Whereas the practical impact of said Section 4 of said Act of September 24, 1959, was to cause more than 80% of the members of the Agua Caliente Band of Mission Indians to be brought under the administration of the Superior Court of California through Guardians and Conservators appointed under the authority of said Superior Court; and

Whereas the members of said Band and the Tribal Council thereof did subsequently complain to the Commissioner of Indian Affairs about certain abuses and improprieties in the administration of said estates; and

Whereas the Bureau of Indian Affairs in response to said complaints did send one Robert Cox to the Palm Springs office in the capacity of a special Resources Trust Officer with the specific request that he attempt to make a general survey respecting the administration of said estates and that he thereafter submit a written report; and

Whereas said Robert Cox did submit said written report with documented and substantiated conclusions both verifying and amplifying those previously asserted by said Tribal Council; and

Whereas Secretary of the Interior Udall was sufficiently alarmed and motivated by said Cox report to order a special investigation and audit of all of said estates; and

Whereas in the wake of national publicity and attention given to said investigation by the Department of the Interior, Congressman John Tunney whose district embraces the Agua Caliente reservation, did proceed without consulting the Agua Caliente Band of Mission Indians or their Tribal Council to introduce H.R. 13516 on October 16, 1967. After having had his office hastily prepare a draft thereof which his administrative assistant, Mr. Dave Tunno, declared was merely a vehicle for the procurement of early hearings respecting said guardianships and conservatorships program and he did further declare that the draft which had been introduced was "no sacred cow," and that the members of the Agua Caliente Band of Mission Indians should feel free to disregard the text of H.R. 13516 and to propose their own ideas and suggestions at the time of the contemplated hearings thereunder: Now, therefore, be it

*Resolved*, that the Tribal Council for the Agua Caliente Band of Mission Indians after calling a special tribal meeting does hereby wish to go on record as being unalterably opposed to the passage of H.R. 13516 because:

1. Section 4 of the Act of September 21, 1959, was limited by the Congress of the United States to appointment of guardians of the estates of all the minor allottees and for those adult allottees who in the Secretary's judgment were in need of assistance in handling their affairs *before* the Secretary would be entitled to make any equalization allotments for payment to such persons.

2. The Equalization Program provided for by the Congress as implemented by the Secretary of the Interior has been completed so that said Section 4 of the Act of September 21, 1959, is no longer functional.

3. The proposed amendatory language embodied in H.R. 13516 would serve to both resurrect a presently nonfunctional Section of Federal Law and to compound the problems presently confronting the Indian by also allowing the appointment of Conservators when in fact such appointments were never completed by the Congress and are deemed to be inimical to the best interests of the members of said Band in what it would tend to perpetuate an unsavory element which has unfortunately been allowed to enter the picture under the administration of the Superior Court of California.

4. The amendatory language of H.R. 13516 will not serve to correct the present abuses nor to effectively diminish the future abuses, but if enacted, will only serve to impose an economic straight-jacket upon said Indians in the handling of their estates inasmuch as it ignores the essence of the problem which has arisen due to a lack of definitive procedures respecting the jurisdictional division between the Superior Court of California over non-trust property and the exclusive jurisdiction of the United States as trustee over the trust property which should be construed to include leases, sales, rights-of-way, or easements pertaining to said trust property which can only be accomplished by legislation invoking definitive amendments to 25 USC 954 and 28 USC 1360 (b) so that the Superior Court of California will unequivocally be precluded from assuming any jurisdiction whatsoever respecting any Indian land or any Indian interest therein held in trust.

Mr. PATENCIO. On the question of the high administrative costs to the Indian estates which has resulted from the guardianship-conservatorship system, I would like to briefly point out at this time that this, to a great extent, has been due to duplication of costs. Before the passage of the equalization law it was quite clear that leases could be made, that easements could be granted, and that rights-of-way could be given respecting Indian trust lands without involving the Superior Court. In other words, the Secretary of the Interior had exercised such power for a number of years without any significant costs whatsoever to the Indians, but when superior court-appointed guardians and conservators got into the act a costly and new dimension was added.

Under the new system the guardian or conservator would request that the attorney representing the Indian estate prepare a petition for superior court approval and the order to show cause showing that such approval had been given. Quite naturally, it followed from that that a charge would be made against the Indian estate for the services of the guardian or conservator and the attorney. In the instances of easements and rights-of-way, it would often happen that no money would pass to the Indian estate because the granting of the easement or right-of-way was to be considered to enhance the value of the Indian land, thereby accelerating development of Indian lands.

Nevertheless, under the new system the costs of services by a guardian, conservator, or attorney had to be paid for out of the Indian's estate. These costs have amounted to thousands of dollars each year despite the fact that the lands in question were trust lands over which the State courts have no jurisdiction. It is therefore, the considered opinion of the tribal council that part of the solution of this problem

would be new legislation making it completely clear that the State courts should in no way be concerned with matters pertaining to Indian lands to which title is still held in trust by the United States. This would mean that the approval of leases and granting of rights-of-way or easements would be handled in the same manner that they were handled before the passage of the equalization law which would save thousands of dollars annually for our Indians.

As chairman, I wish to submit some constructive comments with the hope that it might be of some assistance in the ultimate resolution of problems which now confront us due to section 4 of the equalization bill. Delegates from our tribal council have made several trips to Washington, D.C. to confer with the Secretary of the Interior and his representatives, and we have prepared a substitute bill for H.R. 13516 which in our judgment would effectively cope with the challenge now confronting this committee. For the record, our substitute bill has since been introduced by Mr. Tunney and is, in fact, the present bill under consideration known as H.R. 17273.

In order to come up with this draft, our tribal council has spent a great deal of time in deliberations, discussions and drafting. As you gentlemen perhaps know, under our approved constitution and by-laws our regular meetings are open to all of our members. With the widespread publicity given our problem by the press, we have concluded that any member who had not already expressed himself through the petition of grievance filed with the commissioner nearly 4 years ago would undoubtedly attend our meetings and express himself at this time. We also recently had two special tribal meetings on the guardianship-conservatorship problem in order for our members to give us the benefit of any new thinking which would assist in improving the present situation. In other words, the present draft of H.R. 17273 is the best product of our deliberations and present thinking. It may not be a "sacred cow" and the draftsmanship might need improvement, but in substance, it would be truly beneficial for all the members of our band, and for this reason our tribal council respectfully request that your honorable committee take affirmative action to convert it into effective law. Thank you.

Mr. SIMPSON. Mr. Chairman, members of the committee, Mr. Patencio has requested that as tribal attorney, I address myself briefly to some of the sections in the text set forth in the most recent bill introduced by Congressman Tunney, H.R. 17273, I would suggest that this bill, to the members of the committee, is an effort to solve the problems to which Mr. Patencio, as chairman, has alluded.

Section (a), without reading the context of it, basically accomplishes what could be called the restoration of human dignity to the Indians. Under the guardianship provisions of section 4 of the equalization bill, the gentlemen have become conversant with the fact that the conservators have also been appointed.

Now, at the time of the guardianship bill, or the guardianship provisions of the equalization act that were proposed in the first act, you had a type of legislation being considered in California known as the conservatorship law, so consequently, no reference was made to it whatsoever when the act was passed by Congress. The conservatorship law was not designed to apply in the sense that guardianship law had been applied, otherwise there would have been no purpose in pass-

ing this law. The conservatorship law was to cover a situation where the individual, although competent, did need assistance, where the guardianship law of California, of course, required an adjudication of an incompetency.

In section (a) of Mr. Tunney's latest bill, it is proposed that the Indians be given the benefit of what we might term due process of law, because it makes mandatory that they be entitled to the presumption that when they reach 21 years of age, they are, in fact, competent so that any person asserting incompetency on the part of the Indian would, of necessity, be required to assume the burden of proof in this, which would, of course, restore the Indians to the same status that all of the other citizens of the State of California now enjoy. This, we feel is what we would loosely characterize as the restoration of human dignity for the Indian, because as has been pointed out by Mr. Patencio, when the Indian has reached 21 years of age, it has been almost automatic as a practice to have a conservator appointed on the premise that he was just too young to handle the estate that was coming to him.

This particular law has no application to anybody in California but Indians. The Indians have felt strongly that they should have a chance to at least stand on their own two feet, and if they fell flat on their face, then you could talk about the appointment of a fiduciary to handle the estate.

We further point out that most of this estate is in trust anyway, very well supervised by the U.S. Government as trustee, but section (a) accomplishes one of the most important things for the Indians by entitling them to the same rights as all other citizens in the State of California, the presumption that they are competent.

Section (b) we might call the act of trust section. Unfortunately, after the passage of the equalization laws, it was believed by the tribal members and the tribal council as expressed in the petition of grievances filed with the Commissioner in 1964 that the Bureau of Indian Affairs really abdicated its responsibility, they more or less passed the ball to the superior court and said, "You take care of it from here on out." The supervision, surveillance, and control which it previously had been exercising was, in fact, disregarded. Under section (b) of the proposed bill, if a guardian of an Indian estate endeavors to participate in the development and management of that property and he has special abilities, he may be compensated for that provided he has approval of the Indian and approval of the Secretary of the Interior in doing this. This is considered, indeed, a vital step in putting the Secretary back into the business of being an active as opposed to a trustee. In addition to that, there is something else in the language of section (b) which I think is most important, and that is, in the last sentence thereof, on page 3, it is pointed out that the act of the Secretary would have legal effect. If you are having leases approved, if you have rights-of-way or easements, this is extremely important because some people have raised the question that if you have a guardian of an estate of a minor Indian, or a guardian of an estate of an adult Indian, and this guardian has been appointed by the superior court, of necessity, you would have to have the signature of that guardian or title companies would find it most difficult to come up with title insurance to protect the leasehold interest. This has been a practical consideration.



We discussed it with title companies, this particular language which is added here would have the effect of clearing the way so that actually the Secretary, as Mr. Patencio pointed out, would be able to do that which he has done before the Equalization Act. Before the Equalization Act, he granted rights-of-way, he granted easements, he did, in fact, approve leases and it was not until after we got the State-appointed guardian into the act that we found the duplicity which led, of course, to a cost to the Indian estate which was considered to be unreasonable and unnecessary.

Furthermore, I would point out in respect to this particular section that the Indians themselves, contrary to what many people believe, contribute approximately \$30,000 a year to the maintenance of the Indian office in this particular locale. They have personnel who are working, personnel who are there to perform the services which, under the guardianship and conservatorship program had also been performed by the guardians and conservators, so the Indians are not receiving a gratuity which is carried at the expense of the taxpayers, but have, in fact, paid for professional help to assist them in carrying on the management of their estates. Section (b) would, again I repeat, put the Secretary in the business of an active trustee, working with the Indians and receiving compensation to help carry it out without the barnacle or appendage being added of duplication or going to the superior court to get an order to do that which the Secretary is going to have to do anyway.

Section (c) of the bill deals with the right of an accounting. Now, this is something which the Secretary has not followed through with, and which, under existing Federal law, we will state, he had the right to, so you might say the language is really unnecessary, but by inserting such language we are actually putting the Secretary in the role where as trustee, he performs his fiduciary responsibility so that from time to time he will definitely be checking, if not all the time, which would be the hope respecting the management of these estates which come under his jurisdiction.

Section (d) is a different type of section, which is somewhat similar to section (c), but it goes further because we know as a matter of Federal law, that the jurisdiction of the Federal Government is over the property which is called trust property and which is held, the title thereto, by the United States. Section (d) is, in a sense, patterned after the Osage Act of 1925 when you had unauthorized use of moneys which had come from trust properties. The point of section (d) is to give the Secretary the power where you can trace assets which originated with trust property which have been utilized in an unauthorized manner, and to bring them back in as part of the corpus of the trust.

We believe, for this reason, that it would be beneficial to the tribe and it would certainly give some teeth to the Secretary in performing as an active trustee.

Section (e) is a definition of trust property and I therefore would like to read it and comment upon it.

**Trust property as herein defined is any real or personal property or any interest therein which shall include but not be limited to water rights, leases, rights-of-way, and easements so long as such property remains subject to a restriction against alienation imposed by the United States and cannot be alienated, encumbered or taxed without the consent of the United States and is held for the sole use and benefit of the Agua Caliente Indians.**

It might be stated that in this section, the definition of trust property is unnecessary because the courts have addressed themselves to and defined it, and the Congress has, on numerous occasions, done likewise. It is suggested that section (d) does have merit and should be retained principally because it is the twilight as far as jurisdiction. The superior court has been in the somewhat confusing position of recognizing that if there is a lease and there is a guardian, and the title companies have wanted to have the signature of the guardian on there, the guardian came under the jurisdiction of the court that appointed him, that of necessity, they would have to act upon a lease upon a grant of right-of-way. The right-of-way might not bring any money to the Indian, it might be an enhancement of the property, or an easement for a utility company or some such thing. Under this particular section, we endeavor to make it clear that when we speak of trust property which even the superior court has consistently said should not be included in the inventory and appraisal for purposes of appraisal but only for purposes of information.

It would make it clear that it is unnecessary to run this route of the superior court with respect to trust property and interest in trust property, such as those that I have mentioned. In this way, we may eliminate the twilight zone. We make it clear, and the task force report makes it clear the high administrative cost of handling this program constitutes one of the major attacks upon it, therefore, we would suggest that if you make this definition clear thereby eliminating the twilight zone of jurisdiction so that the trustee knows what he has and the superior court knows what they have to deal with, then you would save the Indians thousands of dollars every year.

The last section, section (f), of course, speaks for itself, stating that:

Nothing in this section shall preclude the Secretary from exercising any other authority he may have to protect the interests of the Indian allottees, Indian devisees, or Indian heirs.

We want this to be a step forward, a constructive step, and we definitely express our appreciation to Congressman John Tunney and his office for the excellent cooperation they have given to formulating corrective legislation which should prove to be of immeasurable benefit to the tribe.

Mr. EDMONDSON. Do you have anything further on behalf of the tribe, Mr. Chairman?

Mr. PATENCIO. I just want to say the rest of the council is open for any questions if you have anything further on it.

Mr. EDMONDSON. May I ask individually at this time, Mr. Pierce, do you endorse and agree with the statement that has been made by the chairman with regard to H.R. 17273?

Mr. PIERCE. I do.

Mr. EDMONDSON. May I ask, Mr. Segundo, if you do?

Mr. SEGUNDO. Yes.

Mr. EDMONDSON. Mr. Patencio, Mr. Raymond Patencio?

Mr. PATENCIO. I'm in complete record.

Mr. EDMONDSON. Mr. Siva?

Mr. SIVA. I'm in complete accord, also.

Mr. EDMONDSON. So, the tribal council is unanimous in its endorsement of the text of H.R. 17273?

Mr. PATENCIO. Yes.

Mr. EDMONDSON. May I ask, Chairman Patencio, if you have had an opportunity to become familiar with the departmental report on that bill, and with the substitute that has been proposed by the Department?

Mr. PATENCIO. We just received it last week. We haven't had the opportunity, but we're hoping to get together with the Bureau with some similarity to what our thinking is.

Mr. EDMONDSON. Would you like to reserve any—

Mr. PATENCIO. Yes, I would.

Mr. EDMONDSON (continuing). Official statement on behalf of the Council with regard to—

Mr. PATENCIO. Yes.

Mr. EDMONDSON (continuing). The substitute that has been proposed?

Mr. PATENCIO. Yes.

Mr. EDMONDSON. Can you supply for the record a copy of your 1964 Petition of Grievances to which you referred in your testimony?

Mr. PATENCIO. Yes.

Mr. EDMONDSON. It will be supplied?

Mr. PATENCIO. Yes, it will be supplied.

Mr. EDMONDSON. If there's no objection, it will be made a part of the record at this point.

(The document referred to follows:)

Re responsibility and jurisdiction of the BIA.

Mr. PHILLEO NASH,  
*Commissioner of Indian Affairs,*  
*Department of the Interior,*  
*Washington, D.C.*

DEAR COMMISSIONER NASH: It is the considered opinion of the members of the Agua Caliente Band of Mission Indians that some extremely severe problems are presently confronting us because the Bureau of Indian Affairs has been shirking certain responsibilities required by Federal Law. These problems arise in part due to Public Law 280 and the Equalization Act the Congress passed pertaining to our reservation.

It is our understanding that Public Law 280 conferred jurisdiction upon state courts respecting Indians in both civil and criminal matters, but that under the provisions of sub-paragraph (b) thereof, the Congress expressly stated that this should in no way be construed as bestowing jurisdiction in the state courts over property held in trust by the United States of America for the benefit of the Indians. Obviously, this would mean that the state courts would not have jurisdiction over any of the allotted properties included within our reservation which are still held in a trust status. In fact, this interpretation has received approval from the Judge of the Superior Court in Indio, the Honorable Hilton McCabe, who has stated that with this in mind he has instructed State appointed appraisers to abstain from appraising trust property whenever a guardianship or conservatorship was involved. This interpretation gains further support from the fact that no trust property is included for the purpose of probate administration in the state courts, and it is handled by the Federal Inheritance Examiners.

With the passage of the Equalization Act, however, a problem arose by reason of the requirements set forth therein that the Secretary of the Interior or his duly authorized representative should request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who in his judgment were in need of assistance in handling their affairs, and that this should be done in accordance with applicable State laws before he made an equalization allotment or payment to such persons. Had only a few members of our Tribe been affected by this requirement of the Equalization Act, perhaps it is possible that no one would have become aware of the problem, but at the time of the

passage of this Act, approximately eighty percent of our members were minors, and this meant that the state court was placed in a direct contact with most of our members.

At the outset, our Indian Office in Palm Springs acted in concert with the Sacramento Area Office to make up a list of the people who in their judgment were in need of assistance, and thereafter recommended to the Superior Court that guardians or conservators be appointed for them. This they did with all the minors and a number of the adults. In our judgment this constituted an unwarranted abdication of responsibility in favor of the Superior Court. The bulk of the estates involved consisted of unimproved real property held in trust by the United States Government for our benefit. From this fact it is exceedingly difficult to conclude that anyone would be able to take advantage of us. After all, under existing Federal law our Indians could not sell or lease their land without the consent of the Secretary or his duly authorized representative. This Federal restriction impresses us as being sufficiently protective. In other words, in the absence of a showing that some harm might come to the estate of the Indian, it is believed that the restrictions imposed by Federal law with the Secretary as trustee are sufficient.

Notwithstanding these restrictions imposed by subdivision (b) of Public Law 280, the Superior Court in California has proceeded under the quasi delegation of power prompted by the Equalization Act to take over the role of the Bureau of Indian Affairs with respect to the guardianship and conservatorship estates. In observing this, we have seriously sustained the legal right of any Judge of a state court to exercise the powers which they are now being exercised with respect to Indian guardianship and conservatorship. It would seem that the only thing that is happening at the present time is that the restrictions imposed by Federal law are being compounded into an almost impossible hurdle for our Indians by the intrusion of the state courts into a domain where the Congress never intended they should tread.

In an effort to seek a solution to the problems presented by this situation, special Tribal meetings were called with Judge Hilton McCabe, representatives of the Palm Springs Board of Realtors, members of the Guardians and Conservators Association, and representatives of our local office for the Bureau of Indian Affairs. Following these meetings which did not bear much fruit, the members of our Tribe agreed that a statement of the grievances presented should be transmitted to the central office in Washington, D.C. We do, therefore, submit the following:

(1) No sale or lease of Indian trust lands can be made without the approval of the Secretary of the Interior or his duly authorized representative. With guardianships and conservatorships, the approval procedure is compounded since the approval of the state court is also required. It is submitted that this does not constitute an advantage for the Indian allottee, and that it only means delay plus the legal expense for payment of the guardian or conservator and their attorney to prepare the Petition for Authority and the court appearance and hearings pertaining to this. This is even true in the cases where such court approval has been obtained and a conditional approval is thereafter given by the Secretary since a second approval must then be secured due to the conditions. State court approval is also needed where rights-of-way or easements are given.

(2) The Superior Court has given its blessings to the establishment of an independent organization known as the Guardians and Conservators Association for the Agua Caliente Band of Mission Indians. The personnel of this association consists mostly of non-Indians appointed by Judge Hilton McCabe. Their avowed objective is to work in concert for the economic development of our Indian lands. In order to facilitate their organizational activities, the Superior Court has approved assessments against the estates of minors even where there was in fact, no money available. It is our belief that this is an act beyond the jurisdiction of the Superior Court which negatively reflects upon the United States Government. In other words, the local Indian Office in Palm Springs is assigned and maintained for the purpose of accomplishing the very objectives of this organization without cost to the Indian allottees involved. If this program is continued it is conceivable that some of the minors upon reaching twenty-one years of age would find that their estates are so burdened by the assessments approved by the Superior Court that they will still be without any income whatsoever. As far as we know, the Bureau of Indian Affairs has never investigated, nor have they objected to, this particular procedure even though they have been fully aware of it.

(3) From the information available to us many of the guardians and conservators were practically told by the Judge to form this organization and have done so as a result of his direction. In addition, they have enlisted their wards as members and where money was available, dues were paid; those without money were subject to the assessments referred to in the preceding paragraph so that they would be required to pay the money when it was available. Why has the Bureau of Indian Affairs neglected to investigate this condition when they are not only fully aware of its existence, but have even mimeographed materials for them at government expense? Copies of letters concerning dues and assessments are appended hereto for the record.

(4) The Superior Court has provided no program for the education of wards or conservatees so that upon reaching a certain level of maturity the Indian would be in a position to handle his or her own affairs. This has been graphically illustrated by petition filed by Indians who have felt they had reached a stage where they could manage their own affairs, and the Superior Court has denied the petition on the ground that the Indian must first acquire special qualifications, but then neglected to establish any educational programs which could one day permit the termination. This, of course, leads us to the question as to how a member is ever to learn if he or she is never given the chance. On this point, it should be noted that a policy of consulting with parents concerning the sale or leases of the children's trust lands would help since the parents have more contact with the children who should be assisted concerning the scope and extent of their estates.

(5) The record discloses what appears to be a preferential treatment by the Superior Court in favor of the City National Bank. Other banks located in Palm Springs, including the Security First National and the Bank of America, have received only one or two appointments as guardians while the City National Bank has received ten or twelve with most of the appointments being made before they even opened a branch in Palm Springs. A special fact pertaining to the appointments on behalf of City National Bank is that Mr. Charles Z. German, the former director of the Palm Springs Indian Bureau resigned his position as director and immediately became the new Trust Officer in charge of these guardianships for City National Bank. The attached list of guardians and conservators supports this fifth grievance.

(6) The City National Bank has expended the sum of approximately \$28,000.00 to publish a brochure pertaining to Indian lands, which has been mailed throughout the country with copies going to the local Indian Office and to the Central Office in Washington, D.C. of particular interest and importance with respect to this item is the fact that Indian estates under their control as guardian or conservator were in fact assessed to aid in payment of this particular brochure.

(7) The City National Bank refused the request of a member to build a home on his Indian trust property, but then offered to increase his monthly allowance to permit him to buy a home on non-Indian land, as has been done in several instances during the past, where he would then be liable for taxes.

(8) The Bank of America in its capacity as guardian for a minor member of the Tribe sold twenty acres of land for a purchase price of more than \$100,000.00. The parent of the minor later read the newspaper and learned that an additional ten acres had been sold for the same minor despite the fact that the minor did not need any more money and was very much distressed as she had no knowledge of any such sale. This, of course, was done with the approval of the Superior Court and with the approval of the local office of the Bureau of Indian Affairs. Why was this permitted?

(9) A sale of Indian land for approximately \$100,000.00 took place without any consultation or discussion with the Indian allottee. Out of the proceeds the conservator extracted his fees and then proceeded to loan the balance to another source without considering the Indian allottee's wishes or needs.

(10) The Superior Court has made orders for the payment of real estate commissions by the guardians or conservators of Indian estates where real estate brokers never have had any contact whatsoever with the guardian or conservator. Under existing state law it is mandatory, if a real estate broker desires to recover a commission, that he establish that an agreement with the person requesting services had been made in order to comply with the statute of frauds that the agreement be reduced to writing. Despite this requirement the Superior Court has made orders for payment of the commission contrary to existing state law. Furthermore, under existing Federal law, such as Section

85 of Title 25 of the United States Code, it is quite clear that the rendition of such services must first be approved by the Secretary or his representative if compensation is to be paid therefrom. This very problem precipitated an opinion from the Regional Solicitor in Sacramento, which was forwarded to the Central Office in Washington. This also led to the drafting of a rough resolution by Mr. Paul Hand, which is attached hereto, asking that the Secretary sponsor legislation which would cure the present problem. It is the conviction of the members of the Tribe that legislation is not needed, but, that a clear declaration of policy is needed. In other words, if the conclusion set forth in the Regional Solicitors opinion are deemed to be correct, and that the evil can only be cured by legislation, it becomes very clear that a tremendous problem will be confronting the government and the state courts because under the logic of this conclusion all persons who had received any compensation for services rendered in connection with trust property would be required to return that sum to the estate of the Indian allottee involved. In many instances the money which was approved by the Superior Court has already been spent so as a practical matter, it would be impossible to comply with an order that it be returned. It is believed, however, that a letter from the Secretary of the Interior approving retroactively the contracts for services which have been made to date could solve this problem. The future situation could also be solved by having the Secretary rather carefully define the break-off point between trust property and unrestricted non-trust property so that persons dealing with the non-trust property could make a contract with the Indian without the necessity of securing the approval of the Secretary. On the other hand, if the Secretary could delegate approval authority for real estate broker's contract to the local office in Palm Springs, the land development program could be greatly expedited by this time saving device.

#### MISCELLANEOUS GRIEVANCES

(1) Better inheritance procedures—more detailed examination and study is needed with respect to the inheritance procedures for Indian trust land, especially where there are wills involving valuable land such as is found in Palm Springs. Problems have arisen which in fact demonstrate that the heirs need more protection, but this can only be accomplished if the Bureau of Indian Affairs will diligently survey the situation. In other words, it would appear that the Bureau of Indian Affairs as trustee over trust land should thoroughly screen the wills that come in to ascertain that they have been understood by all the persons involved, and that no duress or force of any kind has been utilized in the execution thereof. If this is not done, more and more of the Indian land will become vested in non-Indians and our Tribe will be looked upon more as a band of wooden Indians instead of proud, real Americans that we are.

(2) At times the tendency to sell instead of holding for leasing becomes too strong. For instance, one family in our particular band had approximately half of their four minor allotments sold instead of being held for leasing. This again was done where particular need was made clear for the sale.

(3) It is our understanding that under existing Federal law that neither the state of California nor any of its political subdivisions have the right to zone Indian land. We, of course, have cooperated with the City of Palm Springs on this issue in order to affect an orderly development of our land, but it would seem that this could be accomplished in a far more beneficial way to the Indians if the Government as trustee would provide an expert in land development to confer with the Tribe before they approve any particular plan that the city presents. Mr. John Crow has already written a letter to the City Planning Commission emphasizing that there should be no discrimination against the Indian landowners, but a more affirmative consideration of the entire proposed zoning plan for the City of Palm Springs should be reviewed by the Government, in order to ascertain that the Indians are receiving completely fair treatment in the development of their land to its highest and best economic potential.

(4) The City of Palm Springs continues to annex more and more Indian land. We are not convinced this is necessarily in the best interest of the Indians and believe that the Government as trustee should advise regarding this particular action, which we have been informed by a number of individuals is illegal without the consent of the Congress of the United States.

(5) It is our suggestion that the unique economic nature of Palm Springs and the Indian lands involved in and about this area be considered in such a light

that Palm Springs might have a direct wire established with Washington. In other words, the delay occasioned by sending everything through channels to Sacramento has proven to be both time consuming and costly. Hence, we suggest that an Area Director for Palm Springs be appointed.

Respectfully submitted on behalf of the named members of the Agua Caliente Band of Mission Indians.

AGUA CALIENTE BAND OF MISSION INDIANS,  
*Palm Springs, Calif., March 4, 1964.*

Re letter of grievances to Commissioner Nash from Agua Caliente Band of Mission Indians, presented February 17, 1964.

Mr. E. REESEMAN FRYER,  
*Assistant Commissioner of Indian Affairs,*  
*Department of Interior,*  
*Washington, D.C.*

DEAR MR. FRYER: On the morning of February 18, 1964, you were most considerate in complimenting us on our letter to Commissioner Nash, and in suggesting that we supplement this with a further letter setting forth the suggested solutions so that your office could proceed to implement them. Therefore, in accordance with your request, we submit the following:

1. The right of Indians to contract for services.

(a) It is our suggestion that a formal letter be prepared to the central office spelling out with some degree of certainty what is meant by "restricted property" and "unrestricted property." In other words, this letter should eliminate the uncertainty that existed before the Regional Solicitor in Sacramento prepared his opinion on the subject plus the conclusion which followed. We feel that an explanation along the lines discussed in your office regarding the effect of a "direct payment" of rent lease would do much to accomplish this, thereby removing the apprehensions in the minds of those professional people who are willing to render services which may aid immeasurably in the development of our land to its highest and best economic use. This includes real estate brokers, appraisers, land planners, and all others who are in a position to assist Indian allottees. The letter should also explain the application of the "direct payment" factor to both guardianships and conservatorships. By so doing you will be paving the way for constructive and beneficial contracts for our Indians.

(b) It is suggested that your letter explaining the right of an Indian to contract for services should, if possible, provide specific illustrations. For example, reference could be made to the fact that income from trust property loses its restricted status when the recipient thereof may utilize it as each may wish, such as the purchase of an automobile, clothing, furniture, services of a doctor or such other services as they might desire. Perhaps part of the explanation could be extracted from that certain opinion of the Solicitor, which was rendered on February 13, 1937 which stated:

"It should be pointed out that an Indian, although a tribal member and a ward of the government, is capable of making contracts and these contracts require supervision only insofar as they may deal with the disposition of property held in trust by the United States."

"Consider: *Rider v. LaClair*, 77 Wash. 488, 138 Pac. 3 (1914), which held that Indians could mortgage crops growing on allotments without the government's consent. (These crops are tax exempt under the *Squire* case as part of the trust property.) Also see Act of May 31, 1870, Sec. 16, 18 Stat. 140, 144, guaranteeing the right to enforce contracts to all persons within the jurisdiction of the United States."

2. Eliminate duplication in costs.

It is suggested that steps should be taken to see that the Indian who has a court appointed guardian or conservator faces no greater costs in the leasing of his land than an adult who is allowed to act for himself, subject to the approval required by the Secretary. Public Law 280 does not grant the state courts jurisdiction over trust lands; so why should the leasing or sale thereof require state court approval? This is particularly significant since any conclusion to the contrary leads to the further conclusion that state court approval is needed for rights-of-way and easements. If your office determines that the approval procedures of the Secretary are sufficient protection for the Indians, you will save thousands of dollars each year for our Indians, which they are

now paying to guardians, conservators, and the attorneys who secure the approvals required by the state courts at the present time.

3. Investigate the activities of the Guardians and Conservators Association.

The complaints detailed in our letter to Mr. Nash, designated as grievances (2), (3), (5), and (6) thereof disclose why this must be examined. A copy of said letter is herewith enclosed. If continued as presently constituted, this organization becomes an heir to the fiduciary role which should be exercised by the Bureau of Indian Affairs. Furthermore, this apparent abdication by the Bureau is proving costly to the Indians.

4. Require participation by Bureau personnel.

Those grievances designated as (7), (8), (9), and (1), (2), (3), and (4) under Miscellaneous in said enclosed letter would be solved if Bureau personnel were required to be active trustees. This would mean that the demeanor of the guardians and conservators would be watched, that the City, County, and State would be dealt with more effectively, and that our Indians would know at all times where to turn for constructive help. By way of specific suggestion, we believe that Bureau personnel should assist us in our present fights with the City of Palm Springs respecting zoning and the annexation of tribal land. In fact, it is our sincere conviction that we should establish an Indian planning commission to co-operate with the City of Palm Springs, but premised in its existence upon the fact that the city has no jurisdiction over our trust land. In doing this we would, of course, expect and desire the assistance of the Federal Government.

5. Make the Palm Springs office an area office.

It is suggested that the economic tempo and problems presented by Palm Springs creates a unique situation which is somewhat removed from both Sacramento and Washington would obviate the present costly delays and confusion.

Respectfully yours,

AGUA CALIENTE TRIBAL COUNCIL,  
EILEEN MIGUEL, *Chairman*.  
DORA JOYCE PRIETO, *Vice Chairman*.  
PRISCELLA GONZALES, *Secretary*.  
VIRGINIA SANCHEZ, *Member*.  
ELIZABETH MONK, *Member*.

Mr. EDMONDSON. Do you also have available in document form here, the Bureau regulations on guardianship that you have referred to as CFR 124.5 that contain the objectionable addition of the phrase "or conservator?"

Mr. SIMPSON. Mr. Chairman, we do not have it here, but we will be happy to make sure the committee is supplied it.

Mr. EDMONDSON. It would be helpful if we could have the text of the particular set of regulations including that language which is the objectionable part of the regulations.

Mr. SIMPSON. Yes.

Mr. EDMONDSON. Without objection, it will be made a part of the record at this point.

(The document referred to follows:)

§ 124.5 Protection of incompetents and minors.

The Secretary shall cause the appointment of a guardian or conservator of the estate of all minor allottees and for those in need of assistance in handling their affairs, in accordance with applicable State laws before making any equalization allotments to them.

Mr. EDMONDSON. In your judgment, Chairman Patencio, is your tribe ready for termination of Federal supervision insofar as the tribe's membership is concerned?

Mr. PATENCIO. No; I personally don't believe that we are. I think that.

Mr. EDMONDSON. You have some individuals in the tribe who have



been freed from Federal supervision with regard to their estates and with regard to their properties?

Mr. PATENCIO. No; with—not real supervision.

Mr. EDMONDSON. I had understood that there was some who had nonsupervision by the Department with regard to the majority of their property. Am I incorrect in that assumption?

Mr. PATENCIO. Mr. Chairman, there are about 6,000 acres of the original 32,000 acres of the tribe's land that has been fee patented for purposes of sale or because individual Indians have requested that they receive a fee patent, and the question, I believe, goes basically that there are some people who have requested fee patents to more than 50 percent of the land which has been allotted to them.

Mr. EDMONDSON. I see, but on the other side of the coin do all of the tribal members still retain some property that is under the supervision of the Department classified as trust property?

Mr. SIMPSON. I believe I can honestly say that most of them, better than 50 percent do, I'm not sure.

Mr. EDMONDSON. Gentlemen, do you have any questions?

Mr. BURTON. Just one, I believe, Mr. Chairman.

Mr. EDMONDSON. Mr. Burton.

Mr. BURTON. Mr. Simpson, you said you want the Indians to be presumed competent at age 21, and then if he fails—and you used the expression “flat on his face”—then we could appoint for him a guardian or conservator. If you wait until he falls flat on his face, it is true, is it not, that he might have nothing to conserve?

Mr. SIMPSON. The question is an excellent one and one, I think, many people frequently propose. The answer is “No”; this is not true because if he is competent to handle his own affairs without a conservator, this does not mean, and I do not mean to suggest, that we terminate the Indian because most of the property, for example, the allotments that they have, as long as title is still held in trust by the United States of America, this means that if an Indian has, let's say, a \$350,000 allotment of land and that he has—I'm thinking of one particular case, an income, annual income of \$7,000 dollars—now, if he handles that \$7,000 and squanders it and shows himself to be totally incompetent to handle it, the portion of it which is not trust which is fed to him, then I would say that in that instance a person is like any individual, Indian or otherwise, in need of some definite assistance, but falling flat on his face in that manner, Congressman Burton, you would still have the Federal Government as trustee and, at the present time, they cannot sell, they cannot lease, they cannot do anything with the \$350,000 and the purpose of the trust is not endangered by permitting the Indian to proceed to handle the nontrust property.

Mr. BURTON. Thank you.

Mr. EDMONDSON. The gentleman from California?

Mr. TUNNEY. Thank you, Mr. Chairman. Did the tribe, Mr. Chairman, support the original legislation establishing State court control over the Indian estates? Did the tribe take an official position back in 1959?

Mr. SIMPSON. Mr. Tunney, since I was tribal attorney at that time, the answer is yes; the tribe did. The particular bill was designed to provide supervision mostly because of the minors. As Mr. Patencio

testified, approximately 80 percent of the tribe was under 21 at the time, and we knew one thing very definitely was going to happen. Under the Saund bill, the equalization bill, the airport was going to be sold to the city of Palm Springs. The airport had allotted lands and under the equalization bill, selections were made therein. This meant that some minors were going to have estates that would be nontrust property that would exceed \$100,000 or more so it was felt that this section carried merit as a protective device for the minors who might have nontrust estates that would be rather large.

Mr. TUNNEY. What was the attitude of the tribe at that time with respect to removing the direct control over their affairs from the Bureau of Indian Affairs?

Mr. SIMPSON. The answer is that 4½ years preceding that, you would have joint hearings in Washington on House Concurrent Resolution 103, and this tribe at that time, unalterably went on record as stating that they were not opposed to termination, which they figured eventually would come, but that they were opposed to any termination program which was premature, which would result in a tax impact that would cause them to lose the lands or compel them to sell the lands just to pay taxes, and therefore they opposed the bill of 1954, and they went on record as stating that they felt an intelligent plan would have to be worked out giving sufficient time to develop it, such as less than 50 percent of the total lands are generating any income at all; right now.

Mr. TUNNEY. But, there was no desire to remove the Bureau of Indian Affairs from supervision of the estates back in 1959 at the time the Saund equalization bill was being considered by the Congress?

Mr. SIMPSON. No, I can't speak for individuals, but the tribal position was unequivocally against that.

Mr. TUNNEY. So that I understand that, at the time the 1959 equalization bill was passed, there was no consideration given by the tribal council in support of this legislation that there were going to be conservators, conservatorship arrangements established with respect to the adult Indians.

Mr. SIMPSON. Not at all. You see, the first draft was prepared by the Department for equalization following the Segundo service of decision which was rendered in 1956. The first draft was in 1957, and at that time there was no conservatorship law in California so the language only addressed itself to guardianships. While this was going on, California passed a conservatorship law. When the Congress on September 21, 1959, said their law became law, there was no reference to guardians and no consideration at all to the concept of conservatorships by the tribes took place.

Mr. EDMONDSON. Mr. Patencio, reading from the language of section 4, which was advanced really as the test for guardianship, it says:

The Secretary shall request the appointment of a guardian of the estate of all minor allottees and for those adult allottees who in his judgment are in need of assistance in handling their affairs \* \* \*

Mr. SIMPSON. That is correct.

Mr. EDMONDSON. Which phrase certainly falls considerably short of a finding of incompetence, because I think most every citizen at some time or other, if he has property of any size, is going to have need for

assistance of some kind in connection with management of that property.

Mr. SIMPSON. This is true, but the intention of the tribe at the time, Mr. Edmondson, was that that phrase where they were actually relating to the appointments of guardians for incompetent adults, although the language is not strong, and I think the letter from Mr. Miguel addressed to Congressman Saund in April when the regulations came out and the subsequent one addressed to him from me indicated that because following the tribal meetings, they felt there was a misunderstanding, at least the tribal intention was not being carried out.

Mr. BURTON. Will the gentleman permit a question?

Mr. TUNNEY. Yes.

Mr. BURTON. Mr. Simpson, tell me the technical difference between a conservator and a guardian.

Mr. SIMPSON. The technical difference can be expressed in one word, "incompetence."

Mr. BURTON. Guardian is a person who administers the affairs of an incompetent?

Mr. SIMPSON. Incompetent by reason of age, senility, or some factor justifying adjudication of it. Conservator does not carry any stigma of incompetence, although you treat the two synonymously, and if you do, it might.

Mr. BURTON. Do they have equal powers of administration?

Mr. SIMPSON. They are not exactly the same. Guardianships are considerably more detailed but they are sufficiently similar that we do reach the conclusion that many judges and people administering them have treated them as being one and the same. I want to go back to one observation, Mr. Burton. That is that if they were intended by the Legislature of California to be the same, there would have been no point in passing a conservatorship law. It was designed to deal with the type of a situation where a movie actor wants more than a business manager, or a person where the children figure if they have a guardian appointed, he will probably disinherit them. He'll battle them if it's the mother or the father, but as a conservator, when they say, "I'd like to help," he's willing to go along with that because he's involved in some other things.

Mr. BURTON. Thank you. Mr. Tunney.

Mr. TUNNEY. I have no more questions, Mr. Chairman.

Mr. EDMONDSON. I have just a couple of questions. For the record, would you tell us, Chairman Patencio, what the total membership of your tribe is, and how many are adults?

Mr. PATENCIO. Forty-seven adult members and 105—correction, 150 children total.

Mr. EDMONDSON. Do you have available, or could you supply for the record if you don't have it available, the data on the average education level of your 47 adults?

Mr. PATENCIO. Yes.

Mr. EDMONDSON. Do you know yourself what it comes to?

Mr. SIMPSON. We don't have that information at the moment, Mr. Edmondson, but we certainly, for the convenience of the committee, and any assistance we will provide it.

Mr. EDMONDSON. Can you say from your personal knowledge, whether a majority of your adults have completed high school?

Mr. SIMPSON. To my knowledge, about half.

Mr. EDMONDSON. Can you state for the record what the average evaluation of the holdings of each of these adults would be?

Mr. SIMPSON. The only average I can tell you is that according to appraisals, only about \$350,000. That's appraisal of the dry land without any improvements on it.

Mr. EDMONDSON. Of course, that would vary greatly according to the individual Indian, but you are saying that the average comes to approximately \$350,000?

Mr. SIMPSON. Yes.

Mr. EDMONDSON. Is there, in your opinion, Mr. Patencio, any basic inconsistency in your contention that there should be a presumption of competency to manage affairs at 21 for all of the Indians—and I want to say that I am in wholehearted agreement with that—with our position that a trust relationship should be continued between the Secretary of the Interior and a member of your tribe?

Mr. PATENCIO. Inconsistency in which way are you talking about?

Mr. EDMONDSON. In that in a trust relationship, as I understand it, there is normally a limitation upon management of property, and there is a requirement that transactions, whether they are sales, or leases of land, must be approved by the Secretary of the Interior.

Mr. PATENCIO. Yes.

Mr. EDMONDSON. Do you see anything inconsistent in asking for a continuation of that system?

Mr. PATENCIO. No; I don't.

Mr. EDMONDSON. And, in asking that there be a presumption of competency for your Indians to manage their own affairs at the age of 21?

Mr. PATENCIO. The presumption is on the Secretary now. It's on the part of the Secretary now.

Mr. EDMONDSON. I realize it is.

Mr. PATENCIO. Yes.

Mr. EDMONDSON. Do you feel that the Secretary's power as a trustee should be continued substantially as it is with regard to approval of your leases?

Mr. PATENCIO. Yes; I'm in agreement.

Mr. EDMONDSON. You do think that it should be?

Mr. PATENCIO. Should be continued in the same capacity as it is now?

Mr. EDMONDSON. Yes, sir.

Mr. PATENCIO. Yes.

Mr. EDMONDSON. And, you don't personally find any inconsistency in a request that your 21-year-old be treated as competent—

Mr. PATENCIO. Yes.

Mr. EDMONDSON (continuing). And a request that the Secretary continue to have the power of oversight and approval for all of their transactions that involve land?

Mr. PATENCIO. I agree.

Mr. EDMONDSON. Now, you would, I think, object to the Secretary's having control over whether or not to sell your car or whether or not you sell your horse—

Mr. PATENCIO. Yes.

Mr. EDMONDSON (continuing). Or personal property?

Mr. PATENCIO. Yes; personal property is nontrust.

Mr. EDMONDSON. But, the land——

Mr. PATENCIO. Trust property.

Mr. EDMONDSON. Trust property——

Mr. PATENCIO. Yes.

Mr. EDMONDSON. You feel this trust responsibility should be continued, and because of the value of the land and because of its additional trust character, you feel that supervision should be continued indefinitely in the future?

Mr. PATENCIO. Yes.

Mr. SIMPSON. Mr. Chairman?

Mr. EDMONDSON. Yes.

Mr. SIMPSON. May I, with the committee's permission, add one comment to Mr. Patencio's?

Mr. EDMONDSON. Before you do, I'd like to ask the individual members of the tribal council if they concur with that statement that the trust responsibility should be continued as to the trust lands in the future in the Secretary of the Interior, and I ask, Mr. Pierce, if you agree to it, that it should be?

Mr. PIERCE. Do you want a yes or no?

Mr. EDMONDSON. If you can give it yes or no, I'd like to have it.

Mr. PIERCE. Yes. I believe, and I don't see any inconsistency whatsoever.

Mr. EDMONDSON. Mr. Patencio, Mr. Raymond Patencio, do you feel they should be?

Mr. PATENCIO. Yes.

Mr. EDMONDSON. Mr. Siva?

Mr. SIVA. Yes; I agree.

Mr. EDMONDSON. And, Mr. Segundo?

Mr. SEGUNDO. Yes.

Mr. EDMONDSON. And, you want to add something?

Mr. SIMPSON. The only point I wanted to make, Mr. Edmondson, regarding the apparent inconsistency, is to on one hand claim you are competent, and on the other hand claim that you want to have somebody maintain a control and management position. The reason that is basically not inconsistent, and the tribe has taken throughout is that for years they have faced the situation where, in a competitive economy they have been unable to compete.

Now, at the present time, you have land carrying a value, according to the latest figures utilized by the Bureau of approximately 50 million. You have income from it in aggregate amounting to approximately 2 percent of that. The tax rate in Riverside County amounts on real property to approximately 2 percent so if this were all tribal property, tribal land, and you immediately ended the trust, to sell this in the position that the Bureau has, you would face a situation where the first year's rent on the tribal land would be going to the county to pay taxes. This, of course, is mostly allotted land, so some people have more income than others, but the members of the tribe believe that certainly they should retain this advantage until this land has been, or has approached the point where the income generated from it is sufficient to permit the payment of taxes and to also have a reasonable return from the corpus of the trust left over, and for this reason they feel that we have supplied money to the Bureau, that they

would receive appraisal services, would receive other services that would help them at this time to develop this land economically, and this is why they recognize the apparent inconsistency, but don't consider it inconsistent in light of the facts.

Mr. EDMONDSON. That's a long last statement. The gentleman from Utah has a question.

Mr. BURTON. Mr. Simpson, as a competent attorney, did I understand you to tell the committee a few minutes ago that under California State law, there is legally no difference between the power of a "conservator" and "guardian," that legally, there are no differences? That it is just psychological?

Mr. SIMPSON. No. I said unfortunately, some people have treated the two as the same, even members of the judiciary, but that there is a difference. In guardianships, in actual guardianships laws, you have far more rigid requirements than you do in conservatorship situations unless—under the conservatorship you do have a provision called special powers, and you can go and secure these special powers as a conservator if the court approves it. No, there's definitely a marked distinction. If you would put the two powers down and compare them, you would find that the objective might be called similar, but the procedures are not the same. One of them that I would give, for example, is that in the guardianship law, a person may not petition to have a guardian appointed for himself, but in the conservatorship law it starts with the language that any person may petition for the appointment of an individual who believes, subject to the jurisdiction of the court is in need of assistance and you go on to get procedural differences, and then differences in the powers.

Mr. EDMONDSON. Mr. Sigler, do you have any questions?

Mr. SIGLER. Yes, Mr. Chairman, I would like to proceed along that line you were developing through a couple of questions of Mr. Patencio. Mr. Patencio, I understood you to say that you wanted all Indians to be regarded as competent when they reached the age of 21 for the purpose of handling their nontrust property, but you want them to continue in need of a trust relationship with respect to their land. My question is, if the land were in some way freed from tax responsibility so the Indian would not be in danger of losing his land through tax processes, would that affect your judgment, or in another form, would you then think an Indian should have complete control over his land the same as he does over his personal property?

Mr. PATENCIO. Well, if the Indian loses trust, he would have control over his land.

Mr. SIGLER. My question is, Do you think that would be desirable?

Mr. PATENCIO. Would that be desirable at that time?

Mr. SIGLER. If the Indian could be given a tax exemption for his land, would you then recommend that he have full control over his land?

Mr. PATENCIO. Well, I would leave that judgment up to the Secretary of the Interior.

Mr. SIGLER. Well, I'm asking what you think.

Mr. PATENCIO. Personally, my thought?

Mr. SIGLER. Yes.

Mr. PATENCIO. If it involved me?

Mr. SIGLER. Yes.

Mr. PATENCIO. Well, yes; I would have control.

Mr. SIGLER. The reason I'm asking the question is to see how much importance the tax feature is in your thinking about continuation of the trust. I gather from your answer that you think that is one of the primary considerations?

Mr. PATENCIO. That is one of the problems, one of the considerations. That's just one of them.

Mr. SIGLER. The second question I'd like to ask, again for the purpose of completing the record is, if an Indian in your band had an income from a piece of trust property, substantial income many times the amount necessary to pay the taxes, do you think he should pay taxes?

Mr. PATENCIO. As a person, are you asking me?

Mr. SIGLER. I'm asking you for your judgment.

Mr. PATENCIO. That would have to be—that would have to be, I think, if he's in business.

Mr. SIGLER. Pardon?

Mr. PATENCIO. If he's in business, he'd have to pay taxes, naturally.

Mr. SIGLER. What I'm thinking of is, an Indian has leased a tract of land and he's getting \$30,000, \$40,000 income from that lease; do you think he should continue to enjoy tax exemption?

Mr. PATENCIO. I think every Indian should have every right that he can get.

Mr. EDMONDSON. That's a 100-percent American statement.

Mr. SIGLER. Thank you, Mr. Chairman, I have no other questions.

Mr. EDMONDSON. I think you're just like the rest of the Americans on that score.

Mr. BURTON. Mr. Chairman.

Mr. EDMONDSON. Congressman Burton has another question.

Mr. BURTON. Mr. Patencio, if you don't pay any taxes on your trust land, isn't it possible that some of your fellow citizens in this county might think you're taking a tax dodge? You drive on the streets, participate in the water, sewage systems, police protection, and all of the normal services that are supplied by a county and city, and yet on those particular lands that are in trust, there are no taxes. What do you have to say in response to that sort of problem?

Mr. PATENCIO. Well, if you look at the map behind you, you will see the problem that we have. We are all included in one bulk reservation not like other citizens, but now, if I felt this way, and the citizens felt this way, they'd have to cut between these two corners of every section to get out of town.

Mr. SIMPSON. Congressman Burton, may I say something to your question?

Mr. EDMONDSON. Yes.

Mr. SIMPSON. One thing I think that we could add to what Mr. Patencio said is the Indians actually do pay a great deal of taxes, and Mr. Udall, for example, in his speech to the Governor's conference a couple of years ago pointed out statistically that the real property taxes are such a small fraction of the real revenue that local authorities are very shortsighted and constantly trying to end the tax exemption, because the tax exemption can accelerate the development of Indian lands wherever it occurs. The local people derive revenue, they collect the possessor interest taxes from the establishments where you

have improvements. Wherever you have improvements on Indian lands, you have taxes being paid by the Indian lessees. Wherever you have the Indians driving an automobile, he's paying his gasoline taxes, which is one of the main sources of revenue today, or if he smokes cigarettes, or whatever it is.

Really, what we're talking about is something which basically permits two things. One, it gives the Indians something for the years of restriction they have faced, to catch up economically; and two, it certainly acts as an accelerator of economic development on Indian land if it is retained for a while, and the map behind you that Mr. Patencio pointed to, points to the lack of development that you see as Indian land. We'd like to see that filled in like the other sections.

Mr. EDMONDSON. Just one final question. Mr. Chairman, I understand that your holdings in trust have declined from about 32,000 to about 26,000 acres in the last, approximately, 10 years; is that correct?

Mr. PATENCIO. Correct.

Mr. EDMONDSON. Are you concerned about this decline in the total of trust holdings, which would indicate to me that at the rate it's going, within a few more decades there will be no trust holdings and tax exemptions?

Mr. PATENCIO. Yeah.

Mr. EDMONDSON. I see.

Mr. PATENCIO. Well, the allotment program which I explained earlier, it's up to the individual to do as he pleases with his property, and I'd like to see him keep it in trust, personally. I don't know what their needs are, or plans.

Mr. TUNNEY. Mr. Chairman.

Mr. EDMONDSON. Gentleman from California.

Mr. TUNNEY. Does the tribe envision the time when they feel that termination would be appropriate in reference to the statement of Mr. Simpson that the tribe feels that it ought to have an opportunity to economically catch up. Does the tribe envision a time when they will be terminated and will desire termination?

Mr. PATENCIO. I'm pretty sure that this is probably what they want. We want to take our place in society, no matter how long it takes, and we'd like to get down to accomplish that. To answer your question, I believe we are working toward that.

Mr. TUNNEY. Has there been any fee title given to trust land in the last 3 or 4 years?

Mr. PATENCIO. Yes, sir.

Mr. TUNNEY. Do you have any idea, Mr. Simpson, how much land has been disposed of by this method? How much has been taken out of the Federal trust in the last 4 or 5 years?

Mr. SIMPSON. The estimate, to the best of my recollection, that the Indian Bureau gave not long ago is that you have something approaching 5 to 6 percent.

Mr. TUNNEY. Thank you.

Mr. SIMPSON. That's in the past 4 years.

Mr. EDMONDSON. Mr. Patencio, members of the council, I want to compliment you on a very fine presentation. I think you have been very frank with us, and I think you demonstrate the knowledge and understanding of the issues involved here, and we appreciate very much



having you and thank you for your presentation. Thank you, Mr. Simpson.

Mr. SIMPSON. Thank you very much, we're glad to help the committee.

Mr. EDMONDSON. The next witness scheduled here is Mrs. Vyola Ortner. Mrs. Ortner, would you come forward, please.

Mrs. ORTNER. I might say, Mr. Edmondson, I met you in Oklahoma a few years ago, and it's delightful to see you again. Mr. Sigler, whom I worked with when I was tribal chairman, I have a lot of respect for, and I'm glad to see you as counsel with the committee.

Mr. EDMONDSON. Would you identify the gentleman with you?

Mrs. ORTNER. My attorney, Mr. Edward Bailey, of Long Beach.

Mr. EDMONDSON. All right, would you proceed, please, Mrs. Ortner.

**STATEMENT OF VYOLA ORTNER, MEMBER OF THE AGUA CALIENTE BAND OF MISSION INDIANS; ACCOMPANIED BY EDWARD BAILEY, ATTORNEY, LONG BEACH**

Mrs. ORTNER. My name is Mrs. Vyola Ortner. I reside at 30524 Oceanaire Drive, Palos Verdes Peninsula. I am a member of the Agua Caliente Band of Mission Indians, at Palm Springs, and am guardian of my two minor children, Benita Joyce Olinger, age 18, and Debra Sue Olinger, age 15.

As a member of this tribe I feel that it is my duty to express my personal views.

Although I have never seen the petition of grievances, I am in full accord with having the conservators, guardians, and all other interested persons investigated. I personally was involved with the Guardians & Conservators Association in its very beginning and served on the constitution and bylaws committee. I did not, however, agree with the voting procedures that were set forth nor with the fact that the assessments were to be made against each estate, even if they did not wish to join the association. I felt this was unfair and therefore left the association.

The Secretary of the Interior, Stewart Udall, in his letter to Congressman Wayne Aspinall, states that the blame lies at the door of some members of the local bar and court. Regarding the court, my only personal conflicts with the local court have been very minor, and I felt then, and I still do, that all the guardianships under the California State law, whether Indian or non-Indian, should be handled alike. In all fairness to the local court, my associations have always been fair and pleasant, and when I was questioned by Mr. Cox of the task force, I stated this position. I personally feel that the blame lies with the Bureau of Indian Affairs.

I feel if inequity and injustice are being practiced, they surely must be corrected. Mr. Udall in his letter further indicated that the situation present in Palm Springs had flourished under Federal supervision. Where does the blame really lay?

The Bureau of Indian Affairs has time after time unofficially approved court petitions knowing well in advance of the court hearing date, and could have protested it if they felt the Indians were being treated unfairly or were being taken advantage of, but no, they always

chose to look the other way until it was too late, then all of a sudden comes this big investigation. It happens time after time, only this time it was conducted in a most disgraceful manner by the Bureau of Indian Affairs officials.

People, Indian, and non-Indian alike, have been unfairly accused publicly and without a chance to present any explanation or reason for action which they may have taken. The Bureau should know that nothing is resolved by making someone else look back in an attempt to hide the egg on your own face.

The Bureau long ago should have seen to it that the Indians were protected by a personal interview with them as to their desires as to choice of guardian or conservator, or whether they were happy with the conduct of their affairs by their guardians or conservators instead of approving the actions of the guardians and conservators without asking the Indian his opinion. It seems everyone controls the Indians' holdings except the Indians. It's time the Indians in Palm Springs controlled themselves.

The Bureau of Indian Affairs does not represent the best interests of the Indians any longer, nor does the tribal council. The tribal council does not even conduct tribal elections legally, as members who did not receive their ballot in the last election can confirm. The tribal council does not keep the members informed of its actions by holding tribal meetings, as was the procedure in the past, and when such meetings were held, improper notice or no notice was given.

For instance, a notification sent out 1 day before the meeting that members should come to make an important decision on the Tunney bill amendment was definitely in violation of the constitution and bylaws of the tribe, which clearly states that a 5-day notice should be given, and I must say that I wonder what the Tunney bill is, let alone an amendment to it.

The tribal council holds its tribal meetings, passes its resolutions, then off to Washington to represent to the Bureau officials and congressional Members that this is the true position of the Agua Caliente Band of Mission Indians when the members know nothing of the resolution or what it contains.

On this particular occasion, even the tribal attorney admitted that it was not fair and the resolution did not represent the true tribal position. The tribal council minutes contain no real information on the rare occasions when they are mailed to members of the tribe. The tribal council refuses any opinion's advice, or recommendations offered by any tribal members who, because they are not on the tribal council, are referred to as "the sour grapes minority."

The tribal council refuses to assume its responsibility of the management of the cemeteries and a \$50,000 tribal building that is deteriorating because of the council's inaction.

Gentlemen, it is time for all concerned with this reservation to face squarely the solution to these problems. You can have all the misrepresentations by the tribe you wish, and you can have all the investigations by a task force and reports you want, and all the congressional hearings and legislation, and more legislation, but you will never solve the problems until you have a good and workable termination program. This reservation, unlike other reservations in

the United States, is ready to be terminated and ready to be released from Federal control.

In 1938 at a hearing before the Indian subcommittee in this very village, the Indians asked to be freed from Federal supervision. In 1954 we testified before Congress that we could be ready for termination in 10 years. We are ready now.

Only a small operation is necessary to manage our tribal holdings, which are the Spa, two cemeteries, five canyons and our tribal building, since all the remaining lands are allotted.

Only through a termination program that is constructive and free of Bureau restrictions will the Indian be allowed to exercise his intelligence in the business and economic world, and allow him to assume his responsibility in the community and his country.

One of the tribal members, Mr. Larry Pierce, whose intelligence and ability was recognized and commented upon by his commanding officer while he was in the service and applied for his fee patent, and who has finished 2 years of college, says we cannot be terminated because we are not educated. Yet, because of his very background he, as a man, should be more willing to assume his responsibility in the community instead of trying to selfishly find a property tax shelter.

Only through termination will you free the Indian from his guardians, conservators, council, business managers, and attorneys, who invest Indians' money at a low or no return or without security, or deal with the Indians' properties to their own self-interest.

Only through termination will you allow the Indian to seek the counsel of business managers and attorneys who are ethical, trustworthy, and working to the best interest of clients, because only through termination will the Indian be able to make the choices that he feels are to his best interest.

Although I am aware that this committee is not a termination committee, I certainly hope that you realize that termination is the only solution to the problem you are investigating. If and when a termination committee is organized, I would be more than happy to travel wherever the hearings may be held at my expense so that I may give my ideas and recommendations for a successful termination program. Thank you.

Mr. EDMONDSON. Thank you, Mrs. Ortner. I have a couple of questions here. I'm sure the other members will have some questions, also. I compliment you upon your frankness in stating your views.

Mrs. ORTNER. Thank you.

Mr. EDMONDSON. One question I would like to ask you is, whether you have read the letter from Mr. Udall to Mr. Aspinall which is the subject of your comment on page 1 of your statement?

Mrs. ORTNER. Yes.

Mr. EDMONDSON. You have read it.

Mrs. ORTNER. Yes.

Mr. EDMONDSON. And, did you say that in that letter the Secretary of the Interior stated that the blame lies at the doors of some members of the local bar and court?

Mrs. ORTNER. Yes.

Mr. EDMONDSON. You think that's a fair statement of Mr. Udall's statement on that subject?

Mrs. ORTNER. I can't say whether I think it's fair, but he made the

statement such as he did in his letter. I feel this way, that the investigation that was conducted should have been with more conference with the people that were involved and the accused, and I don't think that it's fair to blame the local bar or the attorneys without having some conference with them before you publish in the papers that all the things they are doing are wrong.

Mr. EDMONDSON. Let me read to you two quotes from the letter to Mr. Aspinall which I have here, dated April 2, 1968, the transmittal letter for the report, I assume you are talking about?

Mrs. ORTNER. That's the one.

Mr. EDMONDSON. "In all frankness I must say that I am appalled that the state of affairs described in the report has not only existed under ostensible State and Federal supervision; it has flourished." Now, that's the first statement. Let me read the second one to you. "The task force also found that a share of the responsibility for the present state of affairs in Palm Springs rests upon the shoulders of this Department."

Mrs. ORTNER. Yes.

Mr. EDMONDSON. Would you say that Mr. Udall put a share of the blame for this situation here upon his own department, the Bureau of Indian Affairs itself, in this letter?

Mr. ORTNER. Yes, it did, definitely, which I think is justifiable.

Mr. EDMONDSON. But, don't you think that it's a little bit out of place then for you to state in your statement that he puts the blame on the door of members of the local bar and the court?

Mrs. ORTNER. Maybe I should have said in my statement that he put a share of the blame on his own department.

Mr. EDMONDSON. I think he was pretty emphatic in his letter in saying that he's appalled by the Federal supervision situation and that he feels a share of the blame lies on the Department.

Mrs. ORTNER. True.

Mr. EDMONDSON. I'm not quarreling with your statement about his attribution of blame to the bar and the court, because he's emphatic about that, too, but I think he also recognizes in this letter that his department must share the blame.

Mrs. ORTNER. This is true.

Mr. EDMONDSON. It is stated pretty emphatically in his letter.

Mrs. ORTNER. Yes.

Mr. EDMONDSON. You made a reference a little bit ago to a tribal election that was not conducted legally. What tribal election was that?

Mrs. ORTNER. According to our constitution and bylaws, all the adult members are to receive an election ballot. It's been the procedure in the last few years, I don't recall, two or three, to send them out as if they were absentee ballots, and all the balloting is to be done by mail. To my knowledge, speaking with Mrs. Miguel, she and her brother and one other member of the tribe never did receive the registered letter or even a notification that the balloting was being held, or tried to be delivered by the post office.

Mr. EDMONDSON. What election was this?

Mrs. ORTNER. The annual tribal election where you elect your tribal council for the coming year, or certain members, for a certain period of years.

Mr. EDMONDSON. Who was the lady who did not receive her ballot?

Mrs. ORTNER. Mrs. Eileen Miguel. She is a former chairman of the tribal council.

Mr. EDMONDSON. Do you know any others by name who did not receive their ballot?

Mrs. ORTNER. Her brother, Robert Saubel did not receive one and I cannot recall the name of the third person who did not receive it—well, her husband, Richard Miguel was another one that did not receive it.

Mr. EDMONDSON. You have heard from them personally that they did not receive ballots?

Mrs. ORTNER. Yes, I did.

Mr. EDMONDSON. Did you receive a ballot?

Mrs. ORTNER. Yes, I did.

Mr. EDMONDSON. Your family, to your knowledge, received a ballot?

Mrs. ORTNER. Yes.

Mr. EDMONDSON. Who were the candidates in this election? Do you recall?

Mrs. ORTNER. The tribal chairman, Mr. Patencio.

Mr. EDMONDSON. Mr. Patencio?

Mrs. ORTNER. Yes; the present chairman, Mr. Patencio.

Mr. EDMONDSON. Was he chairman at the time the election was conducted?

Mrs. ORTNER. No, no; Mrs. Dora Joyce Prieto is the past chairman, and Mr. Patencio took her place in the last tribal election, in addition to two members that were elected, the two members that are present on the tribal council now.

Mr. EDMONDSON. Mr. Patencio was not on the council at the time?

Mrs. ORTNER. He was on the council as a member. He was not on the council in the present capacity as chairman.

Mr. EDMONDSON. You say this happened for the last two or three elections?

Mrs. ORTNER. No; this happened just in our last election in the month of March.

Mr. EDMONDSON. Just in the March election?—

Mrs. ORTNER. Yes.

Mr. EDMONDSON. That this happened?

Mrs. ORTNER. Yes.

Mr. EDMONDSON. Do you know how many members of the present council were on the council prior to the March election?

Mrs. ORTNER. I presume that it was four.

Mr. EDMONDSON. Were the four in control of your election machinery? Are they the ones that had the election?

Mrs. ORTNER. I don't know who is in control.

Mr. EDMONDSON. Who sent out the ballots?

Mrs. ORTNER. The Bureau of Indian Affairs types the ballots up and sends them out with the—registered mail.

Mr. EDMONDSON. The Bureau of Indian Affairs has the responsibility for sending them to all members of the tribe?

Mrs. ORTNER. Yes, sir; that's true.

Mr. EDMONDSON. So, your feeling is then, that the Bureau of Indian Affairs failed to send ballots to the Indians, rather than the tribal council which your statement says?

Mrs. ORTNER. I think it is the responsibility of the tribal council to see that every member receives a ballot, and when there is notification that their ballot has not come back, they certainly have the responsibility to the people they represent to investigate why they have not received their ballot.

Mr. EDMONDSON. Do you think a complaint was made to the council about a failure to receive ballots?

Mrs. ORTNER. I know that Mrs. Miguel made a complaint because I read about it in the paper. Now, whether she talked individually to tribal council members about her not receiving her ballot, I do not know.

Mr. EDMONDSON. Do you know what the total vote was that was cast on that election?

Mrs. ORTNER. No, no; I don't.

Mr. EDMONDSON. Do you know whether it was substantially below the total of 47?

Mrs. ORTNER. I don't have any idea because I didn't see the election returns. I read about them, and it would be very simple to ask the chairman.

Mr. EDMONDSON. Yes; we will get to that before we finish here. You have ideas of the tax exemption on the property of your tribe?

Mrs. ORTNER. I have different ideas. I do feel that the land that is producing income and can responsibly pay taxes, should do it. I feel that a program should be set up to protect the older members of the tribe. I feel that there should be some type of protection for maybe the minor whose land has not been developed. I definitely feel that the Agua Caliente Band of Mission Indians should be terminated from all Federal control; a termination program can be fair to everyone would—

Mr. EDMONDSON. You say that land that is producing income should be free from tax exemption, but the other land, until it is productive should be continued in a trust status?

Mrs. ORTNER. They could be for a certain period of time. It wouldn't be wise, naturally, to flood the whole market with all of the Indian land at once.

Mr. EDMONDSON. Do you know what percentage of that land presently is income producing?

Mrs. ORTNER. No, I don't; no. Mr. Simpson would have—

Mr. EDMONDSON. You're proposing tax exemption for 50 percent of the land, or 5 percent of the land, or 2 percent of the land?

Mrs. ORTNER. I don't have any idea. I'd say it would be closer to 25 percent. Mr. Simpson would have the exact figures, I'm sure, of the Bureau of how much land it is, but I do not know personally.

Mr. SIMPSON. Five.

Mr. EDMONDSON. Five percent of the land is producing income according to Mr. Simpson. So, what you really are proposing is termination of the 5 percent of land that is income producing, if that figure is accurate and continuation of supervision and tax exemption for the 95 percent that is not income producing; is that right?

Mrs. ORTNER. For a period of time.

Mr. EDMONDSON. How long?

Mrs. ORTNER. I don't rightly know now, because I have not thought that out too clearly, but I do feel that it has to be terminated. You have

so many restrictions, Bureau restrictions, and it takes so long to secure approval of your lease. I think this is of interest to the Indian to get the best economic return you can. Many times you lose a lessee while you are waiting for all of this Bureau approval.

Mr. EDMONDSON. I have a document here, Bureau of Indian Affairs, September 7, 1967, that states that there are presently in effect 56 long-term leases affecting 1,298.97 acres; and that 59 Indian landowners are participating in the above lease income; that there are also 76 commercial subleases, 422 residential leases, and 123 residential subleases, for a total 545 residential leases and subleases; revocable permits and short-term leases in effect, 29 covering 160.19 acres; so it would appear that of the 26,000 acres, approximately 1,300 acres were income producing according to this document. Does that sound about right to you, Mrs. Ortner?

Mrs. ORTNER. I don't have the figures other than what you give me, but this sounds percentagewise right, I would say.

Mr. EDMONDSON. Do you have any information as to the educational level of your tribe?

Mrs. ORTNER. No; I do not. I do know my son spent some time in college. I have a daughter graduating from high school that's going on.

Mr. EDMONDSON. You don't have any children over 21, do you, Mrs. Ortner?

Mrs. ORTNER. I don't know, do I? I have a son in——

Mr. EDMONDSON. You don't have to tell us——

Mrs. ORTNER. I never tell my weight, but I'm always willing to tell my age. I'm 47, but I feel that this termination—I feel—now, I never graduated from high school, but I certainly did not feel that I am an uneducated person. The school of experience has taught me many things which a college degree could never teach me, which I appreciate and I value. I think that all my children should have an opportunity to be educated and should not have to face, upon age 21, a conservator.

Mr. EDMONDSON. Have you applied for your own property to be freed from——

Mrs. ORTNER. Yes; I have applied. I sold my 40 acres out of my 47-acre allotment. I still have land in trust, a 2 acre and a 5 acre.

Mr. EDMONDSON. Have you applied for the——

Mrs. ORTNER. No; I have not. Being selfish, I thought, "Well, if they bring in a termination program, I'd just as soon enjoy this," but my property, I will say—I won't lose anything by being terminated from Federal supervision. I will be able to retain my property.

Mr. EDMONDSON. So, you don't find that it is such a hindrance that you'd be willing to dispense with it?

Mrs. ORTNER. Definitely.

Mr. EDMONDSON. You do or do not?

Mrs. ORTNER. I do feel that I would be able to dispense with it, with the nontaxing. I think I can pay the taxes.

Mr. EDMONDSON. So far, you have not decided it was a wise thing to do. I think you said, being selfish, you were not going to do it unless there was——

Mrs. ORTNER. Yes; this I did state, but I have also felt that termination is an inevitable program for this reservation.

Mr. EDMONDSON. It's available, really to a particular individual who is able to prove his competency, isn't it?

Mrs. ORTNER. Certainly.

Mr. EDMONDSON. So, you could accomplish it with an application, couldn't you?

Mrs. ORTNER. I most certainly could, but as I said myself, selfishness has prevented me from taking advantage of it, because actually, I receive my monthly income, which is very good, and you're putting a little nest egg away so that when you do have your taxing, then you're able to meet it.

Mr. EDMONDSON. The point I'm making is, in your instance, assuming that you are competent—and you appear to be highly competent to me—there is no roadblock to your having termination, is there?

Mr. ORTNER. No; but there is no hardship for me being in the position I'm in now, either.

Mr. EDMONDSON. Do you gentlemen have anything?

Mr. BURTON. I'd like to go back to this election. You say there were four members of the present council who were elected in March?

Mrs. ORTNER. Yes.

Mr. BURTON. Were there—

Mrs. ORTNER. No, no, no. There was the chairman who was elected on uneven years for 2 years, I guess it is, or the even years for a 2-year period, and then our tribal members are elected on a yearly basis, so it would be 3.

Mr. BURTON. Did the candidates that were running in March have opposition?

Mrs. ORTNER. Not that I know of; no.

Mr. BURTON. In other words, it was just their names on the ballot?

Mrs. ORTNER. Yes.

Mr. BURTON. So, what difference did the two or three ballots make?

Mrs. ORTNER. Well, I would be very indignant if I never received my ballot for a primary that I'm voting in next Tuesday, or if I didn't receive my ballot for a presidential election, and I think it's only fair when you pass 21 that you are to get your election ballot, that you should receive it.

Mr. BURTON. I certainly agree with that, and I can't understand why this lady did not phone up the Bureau and say, "Where's my ballot? I want to vote."

Mrs. ORTNER. I cannot answer for Mrs. Miguel. She will have to answer for that herself. All I know is that she spoke to me about it, and the unfairness about it.

Mr. BURTON. It's my understanding, Mrs. Ortner, that in reading this report and information we have here, that the tribal council meets twice a month. Is that your understanding?

Mrs. ORTNER. Yes.

Mr. BURTON. And, to your knowledge, have these meetings been open to the public? Are they open to the public?

Mrs. ORTNER. They are open to any member, any tribal member, not to the general public.

Mr. BURTON. They are open to any member?

Mrs. ORTNER. That's right.

Mr. BURTON. It's my understanding that tape recordings are kept



of all the hearings, and that these are available for any tribal member; is that your understanding?

Mrs. ORTNER. I have attended these tribal meetings, these tribal council meetings where the tapes are used, but also the tribal council has the responsibility to send out minutes since the contract. Mr. Simpson's contract says the quarterly payments are predicated upon how many meetings he has attended. The only way the Bureau can see how many times Mr. Simpson has been in attendance is by the tribal council minutes. He has not been coming out, they have been on the tape lots of times. Last year, I would say maybe we had a good five tribal minutes that were sent out to the members of the tribe, and when you do not have tribal meetings, full tribal meetings, the tribal members cannot be informed of what's going on, so you may have tapes but unless they are transcribed, what good are they? Are you all going to come from many miles away? My sister lives near San Francisco and this is ridiculous, she can't. The tribal council has the responsibility to the members to get them out.

Mr. BURTON. My point, in that line of questioning, is that I wanted to discern for myself whether the information was available, as necessary, and if it was possible for a tribal member to attend a meeting and see the business transacted. Apparently, that isn't so in your case.

Mrs. ORTNER. You can attend the meeting, but it was my experience that when you would go, and you would ask questions, they would sit there like a bunch of wooden Indians and say nothing to you when you talked, and I resent not being looked squarely in the eye if I have something to say and you have a rebuttal, or you have an explanation. Please look at me in the face and tell me, don't just sit there, and then when you adjourn the meeting say, "Whew, what a bag that is." You just don't do that. It isn't good business and it isn't fair, so they just sit there and if anything important comes up and you want an answer at that time, what do they do? Well, "We'll defer to the next meeting," so you get tired of hearing everything deferred to next meeting and you don't come, but you can attend, this, I grant.

Mr. BURTON. Thank you.

Mr. EDMONDSON. Mrs. Ortner, how many meetings have you attended since March?

Mrs. ORTNER. I have attended none.

Mr. TUNNEY. Mr. Chairman?

Mr. EDMONDSON. Congressman Tunney.

Mr. TUNNEY. You made a comment, Mrs. Ortner, in your statement on page 5 that "Only through termination will you free the Indian from those guardians, conservators, council, business managers, and attorneys who invest Indians' money at a low or no return or without security, or deal with the Indians' properties to their own self-interest." Then, in answer to a series of questions, from Mr. Edmundson, the chairman, you indicated that you saw a difference between developed land and undeveloped land as far as termination was concerned; is that right? As I understand your responses, you said you felt that with land that was developed and income producing you could have termination immediately; where it is undeveloped and nonproducing, that the termination should proceed over a period of time; is that correct? Is that my understanding of this?

Mrs. ORTNER. The last part of your question was?

Mr. TUNNEY. The last part of the statement of my understanding was, when the land was undeveloped and not income producing, that the termination should take place over a longer period of time?

Mrs. ORTNER. Yes, yes. Now, I have not worked this out on paper, which I would like an opportunity to do before comment, but there should be a given period of time, but I don't think it should be an unreasonable length of time.

Mr. TUNNEY. What percentage of the land that you now hold in trust is developed?

Mrs. ORTNER. I retain my original allotment of 7 acres, and it is developed.

Mr. TUNNEY. All of it is developed?

Mrs. ORTNER. Yes.

Mr. TUNNEY. Did you have a conservator at any time?

Mrs. ORTNER. No.

Mr. TUNNEY. Never had a conservator?

Mrs. ORTNER. No.

Mr. TUNNEY. Do you feel that there is any connection between the development of your land and the fact that you did not have a conservator?

Mrs. ORTNER. No.

Mr. TUNNEY. How did you get your land developed?

Mrs. ORTNER. Through leases, and I was very fortunate. On my 5-acre parcel I had a man approach me by the name of Mr. Harry Pitts who had a lot of integrity, and he leased my 5 acres originally on just a 5-year lease, and this is where my development of my 5 acres, I mean, my 2-acre parcel started. You can't do this with just everyone on such a short-term lease, but he is a very astute businessman and I thought an awful lot of him and that's how I got my start on the 2-acre parcel. My parents had developed some of this land with cottages prior to this business with Mr. Pitts.

Mr. TUNNEY. Had you had a conservator would you have been able to develop your land in the same way?

Mrs. ORTNER. I couldn't answer that.

Mr. TUNNEY. Would you feel that it would be fair that if you owned the only undeveloped land and it was in trust, would you feel that it would be fair to you to have the trust status terminated, if you had no other income?

Mrs. ORTNER. Me, personally?

Mr. TUNNEY. Yes.

Mrs. ORTNER. Yes; I think it could be terminated. I think I have the intelligence to seek out people who would develop the land. I could work. It may take me a little while to get going, but I'm sure it could be done.

Mr. TUNNEY. Even though you had no income-producing lands, you feel you should still be terminated?

Mrs. ORTNER. If I had no income, and it was terminated, I certainly would have to have something, a lease or something that was tangible that I could pay the taxes on when it was terminated.

Mr. TUNNEY. That's the point I'm trying to—I am making.

Mrs. ORTNER. Yes.

Mr. TUNNEY. In other words, if an Indian has only undeveloped lands then termination would act to his detriment, would it not, because

it probably would go to the country for taxes; is that not correct? Unless he has other sources of income.

Mrs. ORTNER. I would have to be like a lawyer, and say, "Well, the answer is yes and no," and then ask to explain. I feel you have two avenues of thought, one is—

Mr. TUNNEY. I certainly don't think that anyone can disagree with your statement that land which is developed and which is income-producing, produces a substantial income, that that person should have to assume his responsibility the same as any other citizen of the country, pay taxes, et cetera, but here we are dealing with land 95 percent of which is undeveloped, and I think you recognize that this does present a special situation, because you indicated that the termination should take place over a long period of time.

Mrs. ORTNER. That's correct.

Mr. TUNNEY. Now, you mentioned also in the statement that as far as the Tunney bill was concerned, on page 3, "I wonder what the Tunney bill is, let alone an amendment to it." Have you had an opportunity to see the Tunney bill?

Mrs. ORTNER. No; I've never been sent a copy of the Tunney bill.

Mr. TUNNEY. Did you ever ask for a copy?

Mrs. ORTNER. I did not ask for a copy because I really never knew anything about the Tunney bill, to be quite frank about it.

Mr. TUNNEY. When did you learn about it for the first time?

Mrs. ORTNER. I called Mr. Simpson's office for an appointment that we had set up. His office called and stated that he could not keep a luncheon date because he was in Washington on the Tunney bill, and I called Mrs. Prieto, who was the chairman, and I says, "What in the world is the Tunney bill," and so she said that she did not see the resolution, that the tribal council had passed regarding the Tunney bill, and said she did not know what was in it. I called Congressman Haley in Washington, D.C., and asked him what the tribal attorney and the tribal members that were there doing, and what was the resolution, and he said that they had not conferred with him in regard to what their business was, other than the fact that they stated they were meeting with the Secretary of the Interior, so I sent him a telegram to the Secretary of the Interior and he, in turn, referred it to someone in the Indian Commission's Office for answer, stating that the tribal council has had an—has acted on the resolution pertaining to the tribal council and not the tribe, but I have not, to this day, do I have the Tunney bill.

Mr. TUNNEY. Did you write to me and ask for a copy of this?

Mrs. ORTNER. No; I have not.

Mr. TUNNEY. I introduced the bill in October of 1967, October 16, 1967, and I have sent a number of copies to various individuals who have written to me asking for it, and I would have been happy, of course, to have sent you one or send your attorney one. I understand your attorney is standing there with you, alongside you, for his interpretation, and will be happy to make a copy available to you now. I would be happy to give you a copy of the original bill, or the second bill, or a copy of the administration's bill.

Mrs. ORTNER. We'd like to say, Mr. Tunney, in all fairness to myself, that had I known about the Tunney bill, I would have been more than delighted to have corresponded with you among other

Congressmen in Palos Verdes to request a copy of it, as I have done in the past, but I knew nothing about it until March.

Mr. TUNNEY. That's all I have; thank you.

Mr. EDMONDSON. I'd just like to come back to one further point and that has to do with the election, and your very strong language about the tribal council not conducting tribal elections legally. Is the tribal council prohibited from running for reelection, being reelected?

Mrs. ORTNER. No.

Mr. EDMONDSON. So, the tribal council can be reelected indefinitely, if they are able to get the votes?

Mrs. ORTNER. Oh, surely, surely.

Mr. EDMONDSON. Well, under the circumstances, don't you think that it's probably a fairer situation to have the tribal council not be responsible for mailing out the ballots and seeing who gets the ballots and so on, and having it conducted by the Bureau of Indian Affairs which has the official records of tribal members, rather than having the tribal council be the responsible agency in charge of mailing out the ballots?

Mrs. ORTNER. I don't care who mails them out. That isn't my point. My point is the fact that they should see, they have the responsibility to see that every member receives a ballot, and your ballots are mailed out in plenty of time in advance and the return receipt is requested and mailed back to the office, so it isn't a matter of not knowing who has received a ballot and who has not.

Mr. EDMONDSON. Some of these council members were candidates, from what you told me. Do you think a candidate for office has the responsibility to see that every voter in his constituency receives a ballot?

Mrs. ORTNER. I feel that with the small membership that we have; what is it? Forty-seven adult members. I don't think it's any pain or strain of this local tribal council to see that every member has a ballot.

Mr. EDMONDSON. Unless you called them up and asked about it, how would they know that you have not received a ballot?

Mrs. ORTNER. Before they'd even transported them and—that's not my quarrel. My quarrel is that the tribal council—

Mr. EDMONDSON. You charge that the tribal council illegally conducted an election, and I think your language is pretty strong without documentation here, and particularly since the evidence that I think has been received is that the Bureau of Indian Affairs sends out the ballots and not the tribal council. Now, to charge them with an illegal conduct of an election is pretty strong language, I'd say. It comes about on the same level with your charge about the Secretary of the Interior blaming everything on the courts and not recognizing his own Department is at fault in this.

Mrs. ORTNER. I possibly misread what I said here, but I do feel that the responsibility to see that everybody receives a ballot lies with the tribal council.

Mr. EDMONDSON. Do you think the tribal council should have to determine that every person has received a ballot?

Mrs. ORTNER. Yes; every adult member, I think they should. It's been done in the past, and it should be continued, as such. Whether

that individual exercises his right to vote is his prerogative, but every member should receive a ballot.

Mr. EDMONDSON. You don't think it is possible that some individual might have had a miscarriage of his mail, or might even have thrown the mail out with the bills that he didn't want to pay, and that there might have been a mistake on the part of some individual, rather than the tribal council committing an illegal act?

Mrs. ORTNER. I have known Mrs. Miguel for many years and she's a woman of integrity, and I respect her highly.

Mr. EDMONDSON. You do not think it is possible that she might have accidentally misplaced her ballot?

Mrs. ORTNER. No, I do not. I have no feeling of that whatsoever. If she says she didn't receive a ballot, she did not receive a ballot.

Mr. EDMONDSON. If there are no more questions?

Mr. TUNNEY. No, Mr. Chairman.

Mr. BURTON. No further questions.

Mr. EDMONDSON. Thank you. Our next witness is Mr. James Hollowell.

Mr. HOLLOWELL. May I defer to some people who have shorter testimony?

Mr. EDMONDSON. You would like to be heard this afternoon?

Mr. HOLLOWELL. Yes, sir. Some of the testimony is short, and some of these people would like to go home.

Mr. EDMONDSON. I think that's a reasonable request. We would be very happy to.

Mr. HOLLOWELL. Thank you.

Mr. EDMONDSON. Mr. August Kettmann.

#### STATEMENT OF AUGUST G. KETTMANN, ACTING POSTMASTER, PALM SPRINGS, CALIF.

Mr. KETTMAN. Mr. Chairman, members of your committee, tribal council, and guests, my name is August G. Kettmann. I am presently the acting postmaster in Palm Springs, and for purposes of identification, I want to state that I served as chief of police in Palm Springs from April 1945 to June 1964, with a year out in 1953, and as a conservator from June 1965 to date.

With this background, I've had some considerable acquaintance with the Agua Caliente Band of Mission Indians and their circumstances for the last 23 years.

The majority of the variously estimated 50 members in 1945 lived on the westerly half of section 14, a 640-acre square of land bordered on the west by Indian Avenue, north by Alejo Road, and on the south by Ramon Road. This section is centrally located and abuts on 1 mile of choice business frontage. It is probably the most valuable square mile in Palm Springs.

My purpose here today is to provide some historical information. On the Indian Avenue frontage, in 1945, there were one-story frame, or frame and stucco cottages, small businesses, and low-cost motels and rentals. Within 100 feet, a slum condition existed, with several hundred persons, including the Indian landlords, occupying substandard dwellings, shacks made of sheetmetal, tin, and cardboard. There were

no paved streets and, in some cases, lanes were rambling, dusty, and unnamed, and undedicated.

Indigent occupancy was commonplace and the area served as a refuge for drunks, vagrants, prostitutes, and floating crap games. It constituted a serious criminal problem for the community. In 1950, a study revealed that 48 percent of the arrests and criminal complaints occurred on one-quarter of section 14, although it represented only one-thirtieth of the incorporated area of the city. Purse snatching and assaults on women were commonplace after dark.

Until 1953, Federal law forbade the possession or consumption of alcohol by Indians. City police carried U.S. Indian officer commissions in order to deal with situations involving Indians. Manipulating tenants and other connivers often supplied their Indian landlords with liquor in lieu of rent or to accomplish some short-term leases. Because of the fear of apprehension, Indians drank excessive amounts of liquor to escape possession charges, only to collapse on the street and be taken into custody as drunks. Drunken fights, clubbings, knifings, shootings, and homicides grew out of this intolerable state of affairs.

After Congress lifted the drinking ban, the alcoholic problem with the Indian residents eased. The compulsion to immediately consume any liquor that came into their possession had been removed. They became relatively tranquil, and excesses were less frequent.

A few Indian families had limited income from 30-day permits and low-cost rentals, \$10, \$15, \$30, and up to \$50 per month. These were the Welmasses, the Hatchitts, St. Maries, the Segundos, Arenases, and the Patencios. You could almost count them on the fingers of one hand. The others were truly impoverished and deprived. They were on welfare and derived some income from admissions paid by visitors to the canyons and patrons of the bathhouses and mineral springs. This was distributed by the Indian Agency to tribal members.

The majority lived on section 14, while a few resided on South Palm Canyon Drive where they operated a low-cost trailer park. The tribe owned the same 25,000 to 30,000 acres it owns today. Its members, however, were uneducated and, with few exceptions, lacked leadership and management knowledge. Conditions on section 14 were chaotic and sanitation was nonexistent. In this slum section, venereal rates were high, and the Agua Calientes were truly an impoverished and deprived people.

About 1956, this blighted area and the plight of its owners and other occupants became a matter of community concern. The Indian Bureau urged the court to take notice of the situation. In 1956, the superior court, presided over by Judge Hilton McCabe, activated the conservatorship program. Examination disclosed that 25-year leases authorized in 1955 were proving useless, since they were found to be unbankable. In 1959, long-term, 99-year leases were sought and approved by the Congress.

The superior court appointed financial institutions, leading realtors, attorneys, and merchants, management firms, and businessmen to serve as conservators and guardians. These men have not limited their interest to financial matters. Frequently, they have had to assume responsibility in family matters and other difficulties that their wards were confronted with. In some cases, serious illness, judgmental deficiencies, and felony crimes complicated the problem of the guardian or con-

servator. In spite of the difficulties, dedicated conservators with the help of an interested court, within a decade, brought order out of chaos.

Cooperation between the city of Palm Springs, the Bureau of Indian Affairs, and the conservators gradually wiped out the slum by removal of scores and scores of shacks and other unsanitary makeshifts that blighted section 14 and discouraged potential developers. This started around 1960.

By 1961, the crime rate for the same section dropped from 48 to 12 percent.

At the same time, profitable leases were being negotiated, as evidenced by such developments as the Spa Hotel, the Villa Apartments, the Springs Apartments, Canyon Country Club, Canyon View Estates, the Pitts Indian Avenue development, Palm Ramon, and others.

Prior to 1960, yearly tribal income was a few thousand dollars. Today, it exceeds \$1 million. The Agua Caliente Indians have been lifted from their economic bondage. And, the exciting part of it is that their tremendous resources have hardly been touched. Their future is a happy prospect indeed.

Since 1965, I have had the pleasure of acting as conservator for Ray Leonard Patencio, the scion of one of our best-known Agua Caliente families. He is 21, married to a high school graduate classmate, and the father of two children. Recently, he moved his family into an attractive \$40,000 home in one of our best neighborhoods. Next week Ray will be graduated with an associate of arts degree from the College of the Desert.

Ray is only one of numerous young American Indians of the Agua Calientes whose educational, economic, cultural, and financial status has been skyrocketed from relative poverty during the past decade. He enjoys a tax-free income in excess of \$30,000 per year, and that will soon rise to \$50,000 per year.

In my opinion, the conservatorship program has accomplished a miracle. Like most conservators and guardians, I am proud of the gains that have been made and trust that this legacy, with its bright promise, is not shattered by premature conclusion.

Thank you for the opportunity to recite my experience.

Mr. BURTON. Thank you for a very fine statement, Mr. Kettmann. You say you're postmaster now?

Mr. KETTMANN. I'm the acting postmaster.

Mr. BURTON. Did you have anything to do with Mrs. Miguel's missing ballot?

Mr. KETTMANN. It's pretty hard for me to answer that question.

Mr. BURTON. No questions, Mr. Chairman.

Mr. TUNNEY. I have a few questions. Mr. Kettmann, did you have an opportunity to read the report of investigation which was conducted by a group from the Department of the Interior, that was transmitted by the secretary of the Palm Springs task force?

Mr. KETTMANN. I had an opportunity to view the investigation, and the audit of the Ray Leonard Patencio holdings only, and I'm familiar with that, with which I'm directly concerned. I haven't seen the total report.

Mr. TUNNEY. So, when you make a statement, and I guess it is on page 4 in your prepared statement, that "In my opinion, the program

has accomplished a miracle," are you referring to the general program or are you referring to that portion of the program which relates to Ray Leonard Patencio?

Mr. KETTMANN. I'm speaking in general terms from my long, 23-year knowledge of the chaotic conditions that existed to the relatively happy conditions that exist today, for a majority of the Tribe.

Mr. TUNNEY. In the report of the investigation, it is my understanding that Mr. Patencio had land which you, acting as conservator, leased to a Mr. Fey; is that correct?

Mr. KETTMANN. That's one of the holdings that he owns, yes.

Mr. TUNNEY. And, there is a charge made in the report of the investigation that the attorney who was handling the estate for you, was charging the estate for legal services for subleases, and at the same time, was charging Mr. Fey a fee for services performed on the same transaction. Are you familiar with that?

Mr. KETTMANN. I'm familiar with this—

Mr. TUNNEY. Charge?

Mr. KETTMANN (continuing). Belief. I am not aware that there was a duplication of charges by Mr. Hollowell to the estate and also to Mr. Fey. I know that he had represented Mr. Fey, and I had no feeling at any time that he was double charging.

Mr. TUNNEY. In other words, you were not aware of the fact that any fees may be charged to anyone other than to your ward?

Mr. KETTMANN. I don't believe that there is any—not to my knowledge, was there any double charging.

Mr. TUNNEY. At any time, did you feel that it was important that you have the power to be able to lease land without going to court to get a court order?

Mr. KETTMANN. As I look back, I took over in June 1965, and almost immediately thereafter, the conservatorship program was under attack, and because I was so new to the program and because I didn't want to assume responsibility for something that I was not thoroughly familiar with, I did not seek those powers, because of this apparent ongoing attack, and so that I wouldn't be subject to criticism, and also because I wanted to protect my ward.

Mr. TUNNEY. Would you just tell the committee briefly, what services you performed for your ward?

Mr. KETTMANN. Very briefly, my responsibility has to do with ascertaining that the rentals are paid on time, on the various leases of Patencio properties, of providing my ward with the agreed-upon monthly checks for his living, to assist him in making purchases of a substantial nature such as automobiles and things that would cost several hundred dollars, of recently bringing out a foreclosure notice on the Springs Hotel property which brought about the sale of the property and removed its ownership from a man whose assets were not as substantial as Mr. Hollister who acts for half of the property and I felt they should be. The sale was consummated by the previous owner and we now have a very able owner who has made substantial improvements and thereby secured the great value that the lease has on this particular instance. I have worked with Mr. Patencio and I like to call him my ward, because I've known him since he was a little baby, and he's a bright young man. I work with him on all sorts of personal problems, and we talked about acquiring a



home; we looked at numerous homes and we finally settled on one, and in spite of the fact that he didn't agree with me that in his interest he should stay on Indian land, we recently acquired a home on patented land which is subject to taxes, and one which he could very well afford, and I'm sure Iehs' made his family very happy. I was not in agreement with this, because I think in the long run his interests would have been better served had he stayed on Indian land and traded some of his property for a possible site on which to build, but I reversed my position and went along with him when he insisted in respect to the family wishes.

Mr. TUNNEY. Mr. Kettmann, have you been working with Mr. Patencio in the handling of his affairs so that he will be prepared at some future date to take over responsibilities of managing his own estate?

Mr. KETTMANN. Right. I have spent a lot of time with him and his wife and am very proud of his persistence and tenacity in furthering his education in preparing himself for a great responsibility. Within a period of 2 or 3 years he will have the status of a millionaire. He has great assets, his wife has great assets, and they are one of the bright young couples in the Agua Caliente galaxy. He's doing very well and I tell you, 20 years ago, I can't remember a single member of the tribe who achieved a college education level, and the changes culturally that the Calientes have achieved and are tremendous and most impressive.

Mr. TUNNEY. Do you feel that he is prepared to be able to manage his own estate at this time?

Mr. KETTMANN. My personal feeling at this time is that he's on the verge of qualifying to handle this tremendous wealth he has. I don't feel, as of today, that he has quite the experience but he's rapidly acquiring this judgment and maturity that's going to make him a competent mature adult and businessman.

Mr. TUNNEY. Do you have any complaints about the way in which the Palm Springs task force conducted their investigation so far as the investigation related to you and to your ward, Mr. Patencio?

Mr. KETTMANN. The investigation as it related to me consisted mostly of an audit of the accounts that I handle, which I am told in the report indicates are in complete order. Every penny is accounted for, every action that I have taken has been approved by the court, submitted to the court, and I can't say I have a quarrel with it. I'm happy. The books are wide open and I wasn't happy reading about things that were taking place in the newspapers concerning the business affairs of my ward prior to the time I was advised by the task force. That would be my only criticism.

Mr. TUNNEY. Thank you, Mr. Kettmann. That's all I have.

Mr. BURTON. I have no questions, Mr. Chairman.

Mr. EDMONDSON. Thank you, Mr. Kettmann. All right Mr. Schlesinger.

Mr. SCHLESINGER. Yes, Mr. Chairman.

**STATEMENT OF ROBERT A. SCHLESINGER, OF SCHLESINGER,  
SCHLECHT & McCULLOUGH, PALM SPRINGS, CALIF.**

Mr. SCHLESINGER. My name is Robert A. Schlesinger, and I'm an attorney at law, and our firm—383 South Palm Canyon Drive—our firm over the past 10 years has represented approximately 30 percent of the tribe. At one time, our practice was about 20 percent oriented to doing Indian work and now we're down to about 3 or 4 percent, so I can say that our interest now is trying to work constructively with what can be done about the—with the Agua Caliente Indians at the present time.

I have given a statement to Mr. Sigler which was released to the newspapers some time ago regarding allegations involving our firm in the task force report. I don't particularly care to go into that at this time, because I'd rather deal with more constructive things, but I'd be happy to answer any questions.

Briefly, we certainly deny any charges of conflict of interest, and we steadfastly deny any allegations of inaccuracy of accounting that might be attributable to us in accounting matters.

Mr. EDMONDSON. Mr. Schlesinger, would you like to have this statement previously submitted made a part of the record at this time?

Mr. SCHLESINGER. Yes; I would, Mr. Chairman.

Mr. EDMONDSON. If there is no objection, it is so ordered.

(The document referred to follows:)

**STATEMENT OF SCHLESINGER, SCHLECHT & McCULLOUGH IN RESPONSE TO PALM  
SPRINGS TASK FORCE REPORT, MARCH 1968**

The Palm Springs Task Force Report briefly mentions our firm for alleged conflict of interest and alleged inaccuracy of accounting. Both charges are false, unfair and irresponsibly made. Since 1956 we have represented more than 30 Indians to the best of our ability. Our Indian clients have prospered and their vacant lands have been developed. Our fees have been reasonable and we take pride in what we have helped our Indian clients accomplish. We resent having to explain erroneous statements made by investigators seeking to whitewash the agency by whom they are employed. If the individuals responsible for the report will come out from behind the protective shield of governmental immunity, we will bring legal proceedings for damages attributable to their libelous statements. We urge an immediate investigation of the false charges made against us. This investigation should be made by an independent objective agency. Those responsible for the report should be made to account for their actions.

The charge of conflict of interest demonstrates that the task force is biased and unqualified to perform its function. The investigators have deliberately ignored facts known to them that demonstrate the falsity of the charge. They know that the payment of fees to our firm by the tenant in connection with rights of way and rental adjustment was done at the insistence of our Indian clients and the Bureau of Indian Affairs and approved by the Superior Court. Our Indian clients and the Bureau of Indian Affairs were willing to give the requested rights of way and rental adjustments but did not want to pay legal fees. The tenant then paid the cost of the legal services performed by us for our clients. This is not conflict of interest and the investigators knew it.

The charge of inaccuracy of accounting made against our firm is another illustration of deliberate distortion of fact by the investigators. The report implies that we were in some way responsible for the shortages created by the Indian Guardian. The truth is that we relied on and respected the integrity of our client. When the client's own records disclosed shortages, we immediately proceeded with the client to inform the court. The Indian guardian admitted responsibility for the shortages. We arranged for full repayment with interest

by the client to the minor Indians within a short time. The repayment was carried out with the consent of the client and approval of Superior Court and the bonding company which at all times protected the minor Indians from loss.

Mr. SCHLESINGER. The remainder of my testimony refers to the statement that was delivered today.

The task force report and legislation currently before the U.S. Congress was critical of the conservatorship and guardian program in Riverside County. No mention was made of the substantial developments which have occurred through the efforts of the conservators and guardians and their representatives but only criticism of the cost of the program and alleged irregularities which have occurred in its administration. My only personal comments today, you've heard from Chief Kettmann—Postmaster Kettman now—describing what has happened, and you have heard reports of others in the developments that have taken place in the Agua Caliente Indian Reservation and the resultant benefit to the Indians.

Secondly, the Bureau of Indian Affairs is unable to administer the program alone. The conservatorship and guardian program has proved that the Bureau of Indian Affairs alone, without extensive augmentation of its staff, is unable to handle and process long-term Indian leases. The conservatorship and guardian program has further demonstrated that individual guardians and conservators and competent adult Indians can be instrumental in effectively developing trust lands.

The present program has proved inadequate. To abandon the present conservatorship and guardian program without a radical change in the method of operation of the Bureau of Indian Affairs stifles development of the Agua Caliente Indian land by discouraging developers. Prospective developers prefer fee land to leaseholds. When leased land is combined with dealing with the Bureau of Indian Affairs in addition to the probate court and county tax assessor, the developer is presented with a discouraging picture. Further, the continued exemption of Indian land while held in trust, even though developed under provisions of a long-term lease, from property taxation and the rental from income taxation has not proved effective in helping the individual Indian to become master of his own destiny.

A major point I'd like to make is gradual elimination of tax exemptions, No. 4. Mrs. Ortner spoke of this, and so did others, and I'm departing from my prepared statement to reflect on this at great length because I've tried to think what I would want, if I were an Indian and the tribal chairman, Mr. Patencio, tried to examine his own conscience as did Mrs. Ortner, and naturally we'd like to get the greatest amount of benefit we could get, and on the other hand, I think the Indians are no different from the rest of us in that they want something that is fair to all, and I think what they have said indicates that they want a fair solution to this problem.

I think a gradual elimination of this tax exemption will provide that fair approach. A program of gradual elimination of property tax exemption and income tax exemption should be adopted when Indian trust land has been leased. The elimination of the exemption should be sufficiently gradual to allow the Indian to adjust. For example: Once the lease reaches the point where the full minimum rental is payable, normally within 5 to 10 years from the date of approval

of the lease, the Indian would, over the next 10 years, be required to pay 10 percent or more of property taxes and income taxes each year so that at the end of 10 years from the date of full development and full minimum rental payable the property would be fully taxable from a property tax standpoint. The rental would be fully taxable to the Indian the same as any other citizen of the United States. As long as trust land remains undeveloped the present exemptions would continue. Though the Indian would have the legal responsibility for paying property taxes on the developed land, this could be compensated for by additional rental he could command from the lessee.

In conjunction with this, I think a point that's been ignored is the possibility of special courses for Indians at such institutions as the College of the Desert and the University of California at Riverside through its extension courses. These could be—these courses would be specially designed to train the Indian in the handling of his own property. Completion of such a course in a satisfactory manner would free the Indian from the imposition of a conservatorship or guardianship. The conservatorship and guardianship would apply the same to Indians the same as to non-Indians. Guardianships should be required only for minors and incompetents and the conservatorships should be imposed only with care. Where guardianships and conservatorships are required a competent parent or relative where available should be appointed and if none is available then professional trustees should be appointed.

Avoiding unnecessary duplication. This has also been referred to by other witnesses. The present system has led to many duplications of authority and responsibility resulting in failure of enforcement of provisions of leases. For example, and the most recent example is that numerous bonds have been required under leases to assure payment of the rent and these bond provisions have not been enforced in some cases. This has been the responsibility of the Bureau and should have been the responsibility of the conservator and guardian as well. Failure to have adequate bonds posted and kept current has resulted in substantial losses to various Indians.

This also, I feel, is a major point, that leases should be free from Federal regulations. The entire leasing procedure should be overhauled so that the lease would not have to comply with the Code of Federal Regulations or the United States Code. The solicitor's office could review each lease to make certain that it is not unfair in any way but the Bureau should not interfere with normal lending requirements and freedom of negotiations between lessee and lessor. This lack of flexibility has discouraged many a prospective lessee.

Another major point is No. 8, sale should be encouraged, ready for development. In departing from the text, if you will look at the map, the photographic map in back of you, the area map, section 14 is next to the part outlined in red which is the proposed downtown development, and as you can see, there is very little development there other than the Spa Hotel and the Springs Apartment House and Patencio and Wilmas Building. The rest of it has remained undeveloped, and it's obviously the mainstream of development. It is certainly possible that the highest and best use of that land has been in the past and not in the future, in that the highest economic return may have been in the past and not in the future. We hope this is not the case; but this

unfortunate development and retention of the land in an undeveloped status has caused serious problems to the Indians as well as to the community.

In connection with this program of encouraging sale, when the land is sold to encourage the Indian to sell, the Indian's income tax exemption should continue to be applied to the proceeds during the lifetime of the Indian.

Mr. EDMONDSON. A question at that point.

Mr. SCHLESINGER. Certainly, Mr. Chairman.

Mr. EDMONDSON. You mean that if the proceeds of the sale in turn produce income, either by drawing interest in the bank or being applied to purchase of stock and bonds and things of this sort, that revenue from the proceeds should be exempt from taxation for the lifetime?

Mr. SCHLESINGER. I think that that should be a benefit given to the Indian to encourage him to sell. I realize that is an extension, but I feel that the problem is so difficult to trace assets that the entire proceeds and their income should be exempt.

Mr. EDMONDSON. Just wanted a clarification.

Mr. SCHLESINGER. Yes; I feel that way. This will encourage the sale and development of lands rather than leasing. Leasing has proved awkward and expensive and has led to many of the alleged abuses discussed in the task force report. The use of conservators and guardians, if necessary, would be much simpler to review and approve where land management is not involved.

Indian independence should be encouraged. The Bureau of Indian Affairs has operated in an unimaginative manner and has only nominally met its responsibilities. The object of the Bureau should be to best prepare the Indian to become a responsible citizen. In this it has sadly failed. By encouraging sale, the Indian can achieve independence and respect and the land can be developed in its proper economic sequence.

To summarize, encouraging sale, making leasing more flexible, gradually eliminating tax exemption, and providing special education for Indians, guardianships and conservatorships will gradually be eliminated, Indian land will be developed to the highest and best use, and most importantly, the Indian will become a more responsible member of the community, increasing both his self-respect and independence.

Mr. EDMONDSON. Thank you, Mr. Schlesinger, for some constructive thinking on the subject of what can be done in the future. I think your suggestion about the development of special courses to assist in getting competent business management, and so on, is a very constructive one, and I think that there were several other points in your statement with which I would be in very definite agreement myself as to the failure to encourage independence of not only this tribe but of other tribes.

I think there has been a failure in this regard and I think Congress is part of the picture, too. I don't want to put it all on the Bureau of Indian Affairs because I think that Congress should share the blame in this regard, and the overly paternalistic attitude over the years has failed to encourage initiative and independence is something that has a lot of responsibility to share in that regard.

You have, in your filed statement, made some very strong statements with regard to the task force, and have indicated that there is falsity

in some of their findings. I would like to pinpoint some of those findings with you and ask for your comments on them if you would give them to me.

The task force, dealing with this accounting inaccuracy, say, and I quote from the task force report that “\* \* \* Slaughter, Schlesinger & Schlecht failed to report to the court existing cash shortages in the estates during the third, fourth, fifth, sixth, and seventh accounting periods, covering the years 1958 to 1965.” Further, “savings account balances were reported to the court which did not exist or were, in many cases, more than 6 months past the end of the accounting period.” Would you like to comment on that?

Mr. SCHLESINGER. Yes; I would appreciate the opportunity. I'd like to—it's not a simple thing, because statements are made rather categorically and the answers are not simple. The basic problem is that we represent an Indian, Gloria Gillette, who is the guardian of her three minor children, and Mrs. Gillette had had very little business experience, if any, not a great deal of education, and when she was appointed guardian of her minor children, it was carefully explained to her what her duties were to be. She did not carry out these functions properly; despite continued urging of our firm she would not employ a professional accountant and kept the records herself. When it came time to make an accounting, she would bring in the information in very sketchy form, always way past the time the accounting was due. We would have to write letters requesting it. We had great respect for her honesty and integrity at all times. We never had any reason to doubt that she was using the funds properly for the children. As a matter of fact, she never requested a fee for herself, and the only money she received was relatively nominal amounts for the education and support maintenance for the children, so we felt that it was due to her inexperience that she was not doing the job, and that she just either didn't want anybody else in, or didn't want the expense of an accountant, and we were not supposed to supply accounting services, but we did spend most of our time trying to straighten out these receipts. We'd be given passbooks from savings and loan associations with marks in them as to where money came in and where money went out, and what the source of it was, and it was an extremely difficult job in the beginning.

Mr. EDMONDSON. Didn't these passbooks that were turned over to you show the current balances?

Mr. SCHLESINGER. Yes; but she would collect money herself and tell us that she had money in her possession that she had not deposited and she was going to deposit it, and we'd make up an account for the difference.

Mr. EDMONDSON. And, did you report that money as being in a savings account in your—

Mr. SCHLESINGER. We reported what she had told us, and that the money was going to be deposited in those accounts, and the amount showed the money was in hand or in the savings and loan account.

Mr. EDMONDSON. When you submitted your report, did you indicate what part of it was in the savings account and what part of it was cash?

Mr. SCHLESINGER. I can't remember—well, the first few years—in one year—again, I must explain this, that she would not take out her

fees and not take out her allowance that she got until after the moneys were accounted for in the accounting, even though the court had made the award that she could take those out monthly, so she would always wait and see what figures we came up with and then she would take out her moneys and said that she had the balance, whatever it was she had, and would put in, and she would put in that account. Now, some of the moneys were collected from section 14 where there is no written lease, just a revocable permit and she had been in the habit as all of the Indians were, the parents of the minor children who had lots producing income, and she would collect these herself and she did this before the guardianship program was started, so she still continued the same procedure, only now she was continuing the same procedure while not giving the full accounting that was required.

**Mr. EDMONDSON.** Is this an accurate statement in the task force report that says, “\* \* \* savings account balances were reported to the court which did not exist \* \* \* .”?

**Mr. SCHLESINGER.** The balance did not exist as of the date that was shown in the accounting in the savings account. It existed in her representation to us that she had this money, and again, the differences were very, very small in the first few years so there was very little reason for us to question it. In one particular accounting period when she was a year and a half late giving us the accounting information, we wrote repeated letters saying she would be removed by the court if she did not. She then turned over the information to us, and when we went through it, again it was a very difficult job to try to reconstruct what happened. For the first time the discrepancies were so large that we realized that she was taking the money for her own use. The previous years the amounts had been relatively small, there was no question she had substantial property and income of her own, there was no reason to doubt what she had told us were the facts.

**Mr. EDMONDSON.** Well, giving you full credit for having confidence in your client, we still come back to that statement, was it false and unfair and irresponsible to report as the task force did, that savings account balances were reported to the court which did not exist?

**Mr. SCHLESINGER.** Well, I guess that what we could be guilty of is the confidence in our client, that it was as she represented. We did not audit her account, we could not get—we took her word there was cash.

**Mr. EDMONDSON.** But, you did have the passbooks in hand at the time you made your reports?

**Mr. SCHLESINGER.** We would give them back to her to make the deposits to make up the difference that was involved after she computed what her allowed fees were. It was a backhanded way of doing it.

**Mr. EDMONDSON.** So, this particular statement then that appears in the task force report on the subject of inaccuracy of accounting then, is, in substance, an accurate statement, is it not?

**Mr. SCHLESINGER.** As far as it relates to the amounts not being in those accounts at the time they made their accounting, that is correct.

**Mr. EDMONDSON.** Now, let me read you another statement from this same report.

Worksheets in the law firm's files disclose that the firm was aware of the shortages and that balances as reported in the accountings to the court were overstated.

Is that—

Mr. SCHLESINGER. This is the same exact situation. The accounts—she told us she had the cash and she was depositing it in there to make those balances meet what they'd been in those earlier years. They had been relatively small amounts. At that time, I think it was the sixth accounting in 1962, which was not given us until 1964, and the amount again was so large it was obvious that she did not have the money.

Mr. EDMONDSON. And, this statement:

When we discussed these findings with the attorneys, they did not deny knowing of the shortages prior to disclosure to the court but contended that they subsequently disclosed the matter to the court's satisfaction and that the shortages were made up by the guardian.

Mr. SCHLESINGER. No; that's not a correct statement.

Mr. EDMONDSON. That is not a correct statement?

Mr. SCHLESINGER. No; because we did not know there were any shortages, because she represented to us that the money was on hand and the balance needed to bring the account up to the amount that she should have been accountable for. Upon finding this one accounting in 1962 where the substantial—where she would not account for us for a year and a half; at that time we immediately reported it to the court when we realized how large the amount was, after we spent a great deal of time with her, establishing the amount and getting her to agree finally that she did not have this money.

Mr. EDMONDSON. So, what this boils down to is, when you discovered that the shortage was substantial, you did report it to the court, but when you discovered shortages that you did regard as substantial, you did not report it to the court?

Mr. SCHLESINGER. No; that's not correct.

Mr. EDMONDSON. Is that right?

Mr. SCHLESINGER. No; because we did not know in the previous years whether there were shortages. She told us the money was on hand and she had it, and was putting it in and in the 1962 accounting, she admitted that she did not have the money.

Mr. EDMONDSON. I think this all boils down to whether your reports made to the court were accurate reports that reflected a savings account balance of so much, and cash in hand that is to be put in the savings account as so much, or whether you simply reported to the court an inaccurate savings account balance. Can you tell us what you did?

Mr. SCHLESINGER. Yes; we took the client's word that they would be deposited in there, and we put—lumped it together without differentiating what was on hand and what was in the account.

Mr. EDMONDSON. So, in that respect, the savings account balances that were reported to the court were not accurate reports; were they?

Mr. SCHLESINGER. That's correct.

Mr. EDMONDSON. When you did, in 1964, discover one you thought was so substantial that the court needed to be informed of the situation, you then informed the court; is that right?

Mr. SCHLESINGER. Yes.

Mr. EDMONDSON. Thank you. I don't think I have further questions. Gentlemen?

Mr. BURTON. No; I don't think so.

Mr. EDMONDSON. The gentleman from California?



Mr. TUNNEY. Yes; I'd like to ask Mr. Schlesinger specifically, what statements made in the report, or what other statements made by the task force do you consider to be inaccurate and false?

Mr. SCHLESINGER. The statements regarding conflict of interest, Mr. Tunney. Those we feel demonstrate the task force was completely unaware of the subject of conflict of interest, and did not know what they were reviewing and what the significance was, and I think conflict of interest as it appears with the firm of attorneys mentioned in connection with lessees paying for the services of the attorney which were demanded by the lessor and the Bureau of Indian Affairs is not a conflict of interest. This was in connection with, for example, easements, where a utility company seeks easements and the Indian says:

I don't want to pay for it, it's unfair. It's something you want. I don't necessarily want it. Maybe it's something that's going to enhance the value of my land, but I don't think I should have to pay for it—

and the utility company says:

All right, we will pay whatever the reasonable attorney's fees are—

and the Bureau of Indian Affairs knows about it; the petition is filed and there is no question as to who we represent. We represent the Indian, except that the cost is going to be paid by someone else. There is just no conflict of interest. Conflict of interest is where your client doesn't know you represent the other party or—in this case, we know you represent the other party, and in this case we did represent the other party and received fees from the other party, and this was made fully—

Mr. TUNNEY. Did you receive fees from your client, the Indian, as well as from the other party?

Mr. SCHLESINGER. No. The fee was paid—I believe, because I personally didn't handle these in the office, but I think the fee was paid directly to the attorney by the utility company.

Mr. EDMONDSON. May I ask a question? It may be a technical matter on which there is room for a difference of opinion, but don't you, as an attorney, feel that when you weigh the difference between two adversaries or a negotiation between two parties that one party is going to pay you, and the other party is not going to be paying you, don't you feel in that situation it is very, very difficult not to get a warm feeling and some sentiment toward the position of the party that you know is going to be paying you a fee?

Mr. SCHLESINGER. Well, my answer to that is, an attorney, if he has any question that there is a conflict of interest, he should resolve it in favor of the client and not accept the case. In this particular situation, there was 100-percent no conflict of interest because the amount was going to be paid the same whether anybody paid it. The determination was not made by our office that the easement was wanted or desirable, it was made by the conservator or the guardian and the Bureau of Indian Affairs.

Mr. EDMONDSON. How about the amount of the fee? Was this negotiated between the parties?

Mr. SCHLESINGER. No. I believe the method was, the utility company or whoever was seeking the lease, or the lessee seeking the easement.

would ask what the cost would be, if he sought the easement and an estimate was given at that time.

Mr. EDMONDSON. By whom?

Mr. SCHLESINGER. By us. We requested how much the fee would be to perform the services.

Mr. EDMONDSON. So, you informed them what the fee would be?

Mr. SCHLESINGER. No. We would inform the guardian or conservator what our fee would be. In other words, the easement was not presented to us. It was presented to the guardian or conservator and if the guardian or conservator went—decided they would go along with the easement, that it was to the benefit of the Indian, and normally it was, because it was utilities or streets or something else to improve the property, and they would say to us, "Look, this easement is something that we think is reasonable, and we recommend approval but we don't want the ward having to pay for it. What would be your fee? Is the lessee or utility company willing to pay reasonable attorney's fees?"

Mr. EDMONDSON. Do you handle divorce cases?

Mr. SCHLESINGER. In our office we do. I do not personally.

Mr. EDMONDSON. Just wondered about the practice in a situation like that. Would you find any problem about handling a divorce case on behalf of a wife, for example, and having an agreement with the husband as to what the fee would be?

Mr. SCHLESINGER. You just don't do it that way in a divorce case. If the husband is going to be represented by a separate counsel, the fees are determined by the court what the fee is going to be paid, and the settlement is by a court order, and with a settlement without a court order it is between the two attorneys to negotiate what the fee would be and you have no problem. I frankly, prefer—not prefer, but definitely avoid these situations where there is a possibility—I don't like a situation where the client says "You get the attorney's fees from the other side." We, just as an office policy, don't do it.

Mr. EDMONDSON. It is awkward, isn't it?

Mr. SCHLESINGER. And, the easement situation is a standard practice, because the utility company is asking for something and the property owner just feels that the utility company wants it, they should pay for it, pay the cost.

Mr. EDMONDSON. Thank you. Congressman Tunney.

Mr. TUNNEY. You say, Mr. Schlesinger, your clients specifically asked you in each case, whether it was right-of-way that was being asked for, or an easement that was being asked for, asked you to get your fee from the party who was seeking the easement or right-of-way?

Mr. SCHLESINGER. Yes; that's correct.

Mr. TUNNEY. Specifically asked by your client—

Mr. SCHLESINGER. Yes. They would not grant it. It was made very strongly—stronger than that, they would not consider granting it unless the legal cost involved were to be absorbed by the person requesting.

Mr. TUNNEY. Mr. Schlesinger, I would like to ask you a number of questions with regard to the practice of charging fees for services performed for Indians, because I don't have really any knowledge at all of what the practices were and I am trying to develop a better

understanding, so if you will please do your best to answer the questions that are asked in the abstract, although all the questions do relate to information that is contained in the task force report, and I might say that the information is contained usually in critical fashion, so I would like to ask you questions in the abstract to find out just what your opinion is of certain practices.

Mr. SCHLESINGER. Be happy to do so, Mr. Tunney.

Mr. TUNNEY. If you should prepare a lease, should your fee depend on the complexity of the lease, or on the amount of money involved?

Mr. SCHLESINGER. Our practice has been in Indian matters, and this has been consistent since, I think it was 1964, that all fees are based on an hourly charge. We have not looked to the complexity of the matter, we have not looked to the amount involved. Our services have been strictly on an hourly charge. This was not clear, I think, until either 1963 or 1964, but this is now what is done normally, unless this is the arrangement which is made with the client.

Mr. TUNNEY. So, it depends on the arrangement that is made with the client as to whether you charge on an hourly basis or on a percentage basis?

Mr. SCHLESINGER. That's right, but in the Indian matters, it's always been on an hourly basis.

Mr. TUNNEY. In your case?

Mr. SCHLESINGER. Yes.

Mr. TUNNEY. And, do you have any opinion as to whether or not this was standard practice, this is the understanding in the bar in the area or was this just your own particular determination? Did you talk to the judge about it?

Mr. SCHLESINGER. Yes; we talked to Judge McCabe and Judge McCabe made it very clear—and Judge Brown following him—that he wanted the attorneys to perform attorney services when leases were involved or other documents and he wanted an hourly charge, and Judge Brown has preferred this schedule which we have always supplied of exact hours, dates, and we do keep very accurate time of this, and have done it that way. It's not that it's necessarily the fairest way, but it is the way that the court has wanted it, and it's been the simplest way, I might add, in certain of our Indian matters and, of course, we have had criminal and domestic relations and other things involving the ward other than lease matters and property matters, and in these matters we ask the court, specifically requested the court for approval of these fees because they are not on an hourly basis, but that is the exception, not the rule.

Mr. TUNNEY. In a lease similar to one prepared previously should the attorney's fee be less if the work has already been done once before?

Mr. SCHLESINGER. Our answer would be the same, that it's hourly, so it would obviously be less, since something that has been done before, you can do more easily the second time.

Mr. TUNNEY. What percentage of the lease may be filled in by using a form in these Indian estates? In most of the work done by utilization of a form book, or does it take a great deal of ingenuity and imagination in preparing these leases, from your experience?

Mr. SCHLESINGER. That's not a yes or no question. Having written the only form book on the subject, I can say that I haven't used it very

much. Every Indian lease that I've ever—well, I will say that most Indian leases, especially the most recent ones have sought something different every time. For example, one of the most successful developments in leased land in Palm Springs is the Seven Lakes Country Club development, a condominium development. Now, they proceeded with their first development and they couldn't get financing so they went—it was a time when tight money started coming into the picture among other factors, and they went to a savings and loan association in San Diego, Home Federal of San Diego, and Home Federal wanted substantial revisions in that lease and they were very involved. The president of the company, Mr. Sebbitt, had to go back to Washington to get this lease approved which had about the best lease provisions from a lender's standpoint and, mind, this is the whole cue of leasing. You've got to get the financing or you can't have the lease, and he got this lease through. Well, recently, another lessee sought the same provisions. There had been exceptions to the regulations on this Seven Lakes lease, so the next gentleman, who originally had been connected with Seven Lakes, sought this same exact language and the lease is still under consideration. I don't know if it's been approved yet, and he wanted the same exact words in there, and he even referred to the Seven Lakes lease and said, "All we want is exactly what Seven Lakes got" but it's taken him a year and he still doesn't have it, so it's just different in every case, and if you will go by the standard lease, you may have a great deal of—

Mr. TUNNEY. It's my understanding that almost all of the leasing which is done of Indian land was done by ex parte order of the court, is that correct?

Mr. SCHLESINGER. No; I would say that's wrong. There has been no ex parte order of Indian leasing that I know of—leasing of the master lease?

Mr. TUNNEY. Yes; leasing of Indian land.

Mr. SCHLESINGER. No. It's all been done on petition and notice of petition hearing before the court. The only thing that has been done is publications. If you were a non-Indian, the title company would probably require publication, but for some reason, title companies, since it is a trust land, do not require publication in the conservatorship and guardianship program, but there have been regular notices, 10-day notices, and the Bureau of Indian Affairs has always been notified.

Mr. TUNNEY. What about for subleasing under the original master lease. Have ex parte orders been used?

Mr. SCHLESINGER. Well now, where there are extensive subleases normally performed for, like in the Canyon Country Club development or buildings like the Walmas Building or Patencio Building, there are provisions for subleases, and once the original form has been approved, there should be no reason to go to the court. That's within the scope of the original master lease, and it's not necessary to go to the court. You merely go to the Bureau and supply the name of the new subtenant and pay the filing fee.

Mr. TUNNEY. Well, assuming that an ex parte order is required by subleasing, what would be considered a reasonable fee for an ex parte order to sublease, for instance, units in a condominium?

**Mr. SCHLESINGER.** You mean the same thing over and over again, never change?

**Mr. TUNNEY.** Yes.

**Mr. SCHLESINGER.** Well, the only—if the only nominal charge, if there were an ex parte, involves a petition and putting on a petition provisions for order of approval by the court, and the waiver of notice by the Bureau, and if that's all that's involved and attach a copy of the lease, it should only be a nominal charge. I'm talking about \$100, \$150. It would be tops but it isn't necessary. That's not—

**Mr. TUNNEY.** It's not necessary to have an ex parte order, you would say, in subleasing arrangements, that the master lease should provide for the attorney going to the Bureau of Indian Affairs and being able to sublease?

**Mr. SCHLESINGER.** For example, Mr. Fey's development at Canyon View, there have been, I don't know, 400—or 150 residences completed there, and in Seven Lakes they had about 120 now, Canyon Country Club, several hundred-plus subleases and they are exactly the same for everybody, every tenant, and as a matter of fact, they've been submitted to the real estate commissioner in connection with approval of condominiums, so they are exactly the same and fortunately, there hasn't been much expense involved in those because they are the same.

**Mr. TUNNEY.** How much has been charged for each one, do you know?

**Mr. SCHLESINGER.** We just don't have this situation where we had to come in and sublease because we always provide a master lease, and it is pre-approved form. Now, if these do deviate from the pre-approved form, it would have to be a substantial sublease to justify the attorney even seeking it. It would just be done on an hourly charge, and I estimate it wouldn't take more than a couple of hours to get it.

**Mr. TUNNEY.** Was it customary, or is it customary for the Desert Bar to charge Indian clients a full day's fee for appearance in court if a number of Indian cases would be handled by the attorney, and were handled by him, we'll say, in a few hours, charging each one of them a full daily fee?

**Mr. SCHLESINGER.** Well, we have avoided that problem because, as I said, we have done all our billing on the basis of hourly charges. We go down with three men, we divide it in three. This, because it is the only fair way we could feel to do it. If one matter requires more time, say, during the day than the other two, we'd bill that matter the portion of the day, in proportion. We've never double-charged or made additional charges because we're already down there.

**Mr. TUNNEY.** Is this accepted practice? Is this the customary practice? I want to get a feel for what the standards of conduct are.

**Mr. SCHLESINGER.** All I can do is contest it with domestic relations where you go down on a number of orders to show cause on domestic relations matters. It's a different situation because your attorney has already made his fee arrangement before that, and the judge is going to make his court order of attorney's fees based on each individual matter, not because one attorney may have six matters that day. You get the same fee, irrespective, because there had been a lot of other time involved. But, on Indian matters, if you are just going down, most of our Indian matters, frankly, are approved without the necessity of appearance, and the only time we have to make appearance is

when there are questions on accounting or other matters, there is something that someone can come in and object to, but normally they are matters that are approved without appearance and you don't have that problem.

Mr. EDMONDSON. One question. Do I understand you to say that ex parte orders were not obtained on lease matters?

Mr. SCHLESINGER. Mr. Tunney asked me in connection with subleases, what the charge would be on an ex parte order. My answer was that most subleases where they are going to be on a volume basis, you know you've got a development that contemplates 40 subleases, for instance, and they are all the same, the master lease provides for a pre-approved form, and those have been worked out by the Bureau, the Bureau constructed that because it saves everybody time and money, so the occasions have arisen very rarely when we need them.

Mr. EDMONDSON. We have just looked through here, Mr. Burton and I, and there are a number of exhibits here showing ex parte orders for amendments to leases. Is this a different proposition?

Mr. SCHLESINGER. That's something else, particularly on Canyon Country Club. There were several important amendments to that lease. Now, that's different from a sublease amendment. It could affect the rental, it usually affects an important part of the lease.

Mr. EDMONDSON. May I ask also, with regard to petitions for right-of-way and orders thereon, are these considered ex parte matters or not?

Mr. SCHLESINGER. Yes, these may be done ex parte but in that case, you can't use the same argument as in a sublease where you have the same document over and over and over. A right-of-way, by its very nature, involves a different situation.

Mr. EDMONDSON. Thank you. Congressman Tunney.

Mr. TUNNEY. In many of the Indian estates, it states it's alleged by the Department of the Interior that attorneys have charged both the estate and the lessee for their services, at times neither party knowing the other is paying. Do you see any potential danger in this practice?

Mr. SCHLESINGER. Yes. I think it is a practice that has to be—it's a very unethical practice and if it were proved, it would be a subject of disciplinary proceeding. You can only charge one fee and you must disclose it to your client if someone is doing the paying other than the client, because it's the same as—it's an undisclosed principal situation, and you have a very clear duty. The Code of Ethics, Professional Ethics of the Bar Association of the State of California cover that very specifically.

Mr. TUNNEY. When does the disclosure have to take place?

Mr. SCHLESINGER. From the moment that you know about it. For example, if you—I can only think of one situation in our office where we had—we were representing an Indian who had passed away at the age of 96 or so, and there wasn't enough money in that guardianship—I guess it was conservatorship, to pay attorneys' fees, and the wife, Mrs. Arenas, insisted here that in connection with a certain trade of property, the fee must be paid by the lessee. Well, we didn't like it, but we represented the Indian. We talked to the Bureau and said, "This is the only way Mrs. Arenas will go ahead with this lease," and they said, "All right, go ahead on that basis," and it was

spelled out in the lease and order and everywhere else, but it's not a good practice.

Mr. TUNNEY. But, you didn't charge both?

Mr. SCHLESINGER. No, no; the lessee. This was established and determined by the court and the lessee paid.

Mr. TUNNEY. Fine. Well, when you would go to the court with a request for approval of fees to be charged, would the court ever go behind the statement that you would make that these fees resulted in services performed? Did the court ever inquire into the background of the charge or was it assumed that the attorney was ethical and was going to charge only the fee he was entitled to?

Mr. SCHLESINGER. The fee was based on an hourly charge including representatives, as such, and properly supported by schedules. We have never been questioned in our office on fees until recently when Mr. Cox and Mr. Randall would review each petition. We always sent a petition to the Bureau, of course, in connection with any fee we charged.

Mr. TUNNEY. This is always done?

Mr. SCHLESINGER. Yes; but recently, even with the detailing of the exact time and exact purpose, and the amount of fee charged in a specific matter, Mr. Cox has questioned certain items, and though we have not agreed with him, in the spirit of compromise, we have reduced our fee a minimum amount and this has made him happy. The judge has not—in our hourly fee, he has not said, "This is not necessary, I won't grant it."

Mr. TUNNEY. You only charge hourly fees; is that it? Is that your testimony?

Mr. SCHLESINGER. Yes, sir.

Mr. TUNNEY. Have you had any occasion to make any will for any Indians?

Mr. SCHLESINGER. Yes.

Mr. TUNNEY. When you made the will for that Indian, or those Indians, did you explain to them what an executor was?

Mr. SCHLESINGER. Very carefully.

Mr. TUNNEY. What his function was? Did you explain to him he was entitled to fees?

Mr. SCHLESINGER. Yes.

Mr. TUNNEY. Did you ask him to name an executor, or did you name—

Mr. SCHLESINGER. Oh, no. I always ask their choice for executor.

Mr. TUNNEY. And was the executor somebody that they named, or somebody that you supplied?

Mr. SCHLESINGER. No; it was never anybody I supplied. The only time that I would—as a result of the person saying he wanted someone like the bank, it'd be the bank that normally—it would be the bank very frequently that was the conservator of the particular Indian, but we did not suggest that.

Mr. TUNNEY. Do you believe that the fact that some of the lessees have had to pay large size fiduciaries and attorneys, has been an encumbrance to the development of the Indian lands?

Mr. SCHLESINGER. Very seriously; yes, sir.

Mr. TUNNEY. The Bureau of Indian Affairs is charged with the approval of all dispositions of trust land, dispositions such as sales,

leases, grants of right-of-way, et cetera. Do you believe that attorneys and fiduciaries should be involved in the same transactions since the fees charged are quite high, at least according to the report of investigation?

Mr. SCHLESINGER. Could you say that first part again, Mr. Tunney?

Mr. TUNNEY. The Bureau of Indian Affairs is charged with the approval of all dispositions of trust property.

Mr. SCHLESINGER. Dispositions of trust property. You mean when they want to convert from trust status to a fee patent?

Mr. TUNNEY. Well; sales, leases, grants of rights-of-way, et cetera.

Mr. SCHLESINGER. I wasn't considering leases in dispositions. I thought you meant termination of the trust status. You've not limited it to that?

Mr. TUNNEY. No; no. As I say, do you believe attorneys and fiduciaries should be involved in the same transactions?

Mr. SCHLESINGER. No. As I also said in my statement, I think that the Federal Code and the Regulations should be eliminated. Either have one or the other, but not both. It's a duplication, and it's been a duplication of performance without a duplication of responsibility. Very often, it's like a tennis match. The shot goes down the middle and each one thinks the other has the shot, and on these bonds, the Bureau would come up and, say, 3 years later when here it was obviously at the very beginning that rental bond wasn't obtained or insurance wasn't obtained, the conservator, or guardian, particularly the unsophisticated variety or where individual Indians who had no previous experience, it would be a blow to them to find out 2 or 3 years later that the Bureau hadn't enforced the rental.

Mr. TUNNEY. So, if I understand your testimony in summary then, you feel that the present system is totally inadequate and that something has to be done either one way or the other. Either termination as you have suggested, over a period of time, or turn the entire thing back to the Bureau of Indian Affairs, but don't go down the middle, have a little bit of both?

Mr. SCHLESINGER. Well, I think when you deal with—if you're going to continue with the tax exemption which is the same as a trust status and the only reason for the trust status, then you should have just one entity in charge, because this way there are two. You've got to go everywhere, so I do agree with you that it should be one or the other.

Mr. TUNNEY. My statement is, do you feel that way?

Mr. SCHLESINGER. Yes, in my opinion, there should be one entity responsible. Either the guardian or conservator responsible, or the Bureau of Indian Affairs, but not both.

Mr. TUNNEY. Thank you. I don't have anything further.

Mr. EDMONDSON. Thank you.

Mr. BURTON. Thank you very much for your testimony, sir.

Mr. EDMONDSON. The subcommittee is going to take a recess here for the lunch period. It's our desire, if we have cooperation of the witnesses, to complete the testimony this afternoon. We do have witnesses who will require considerable time, so we expect a long afternoon session. With that in mind, we're going to take a longer lunch than normal in order to let each member of the subcommittee attend any business that he has in connection with this office, communicating



with his home and so on, on this lunch period. We will adjourn to reconvene here at 2 o'clock, and the first witness will be Mr. E. W. Hill, and for the information of the other witnesses who are scheduled, and to give them an idea of about what time they can expect to testify, we expect to follow Mr. Hill with Mr. Hollowell, and then to follow Mr. Hollowell with Mr. Cleary. Now, we have no notice, or at least I have been handed no notice of any other witnesses wishing to appear. I have a letter here from the law office of Carrol & Anderson, Mr. John Carroll, and it's my understanding, Mr. Carroll wanted his statement filed for the record. Is Mr. Carroll here?

Mr. CARROLL. I am.

Mr. EDMONDSON. Do you want your statement filed for the record or do you want to appear to testify?

Mr. CARROLL. I want it filed for the record. As I understand, Mr. Cleary's going to cover my position in this, so if he covers it, I don't think it's necessary for me to appear.

Mr. EDMONDSON. So, if there is no objection, your statement will be received and made a part of the record at this time.

(The document referred to follows:)

CARROLL & ANDERSON,  
Indio, Calif., May 23, 1968.

Re Department of Interior Agua Caliente Investigation May 31 hearings, Palm Springs.

Mr. LEWIS SIGLER,  
*Legislative Counsel, Congressional Subcommittee for Indian Affairs,  
Washington, D.C.*

DEAR MR. SIGLER: The undersigned is one of the attorneys mentioned in the Department's report of March 1968, of its investigation of the guardianship and conservatorship program of the Agua Caliente Indians in Palm Springs. I am mentioned in the report at page 33, and therein supposedly connected by Exhibit 27.

I am enclosing herewith for your perusal a copy of a letter dated April 5, 1968, which I directed to the Editor of the Palm Springs Desert Sun Newspaper, in which I set forth my position in this matter. I would appreciate it if you would accept this as my statement to the Legislative Counsel and that it go into the record of this hearing. I intend to be in attendance at the hearing and would like to testify if it is necessary. I received a telephone call yesterday from Mr. Henry Cleary, who is the attorney for the Conservatorship and Guardianship Association, and he informed me that he had been in contact with you and that he was going to testify at length with respect to the report. It is my further understanding that Mr. Cleary will cover the Supplemental Agreement No. 5 of the Palm Canyon Country Club lease, which agreement is the basis for my being mentioned in the report. If Mr. Cleary adequately covers my position, then I believe that it would be redundant and time consuming for me to cover the same matters, and I will refrain from doing so. However, if for any reason, he does not do so, or if for any reason I feel that he has not covered it adequately, then I would like to be heard briefly in defense of my position.

Very truly yours,

JOHN P. CARROLL.

CARROLL & ANDERSON,  
Indio, Calif., April 5, 1968.

Re Udall final report.  
Mr. CARL W. SCHOOS,  
*Editor, The Desert Sun Newspaper,  
Palm Springs, Calif.*

DEAR MR. SCHOOS: I would appreciate it very much if you would print the substance of this letter in your newspaper.

I emphatically and categorically deny the charge of conflict of interest levelled against me in Secretary Udall's report. Mr. Udall and the three members of the

Task Force largely responsible for this report purport to be lawyers and it is inconceivable that such irresponsible charges would be made without first making themselves familiar with the rules of professional conduct pertaining to attorneys, and also checking the facts.

I am enclosing herewith the following: (a) xerox copy of Rule 7, of the Rules of Professional Conduct of the State Bar of California; (b) Canon 6 of the Canons of Professional Ethics of the American Bar Association; (c) xerox copies of California Jurisprudence 2d text relating to the subject matter of divided loyalty (conflicts of interest).

It is to be noted that the gist of the foregoing is that there is not a conflict of interest if the attorney acts in good faith and here is a *full disclosure and knowledge* by all parties concerned of the role the attorney is to play. I call your attention to that portion of California Jurisprudence which I have underlined in red.

The facts of the case in which the Secretary has chosen to involve me in his report are simple and were well-known by all the parties concerned, including various officials at the Bureau of Indian Affairs office in Palm Springs. A non-Indian lessee of land involving several different Indian estates sought relief from certain rental payments it was required to make under the leases. In other words, it was asking something from the Indians. All parties agreed that the case was such that the best interests of the Indians dictated that the relief be granted. After numerous meetings at the Bureau's offices in Palm Springs, a modification agreement was worked out, of which the Bureau of Indian Affairs fully approved. It was clearly understood by all that the Indian estates were to be put to no expense in obtaining the necessary court approvals, including attorney's fees. The Bureau was advised that the lessee would have to bear these costs and expenses I happened to represent one of the Indian estates and received a fee of \$150.00 from the lessee for presenting the necessary papers to the Court for its approval. For this I am charged with a conflict of interest—and this is my *only involvement in the report!* I might inferentially point out that the report released last Tuesday, April 2, 1968, stated that the matter was under submission to the court. A check of the Court records will reveal that the matter was resolved by the Court on December 8, 1967, nearly four months before the report was released.

I trust that you will give my position ample coverage for it does appear from preliminary research that I am powerless to seek legal redress from the Secretary and his staff. It is a classic example of a "wrong without remedy."

Very truly yours,

JOHN P. CARROLL.

Enclosures.

#### CALIFORNIA STATE BAR—RULES OF PROPER CONDUCT

Rule 7. A member of the State Bar shall not represent conflicting interests, *except with the consent of all parties concerned.*

#### AMERICAN BAR ASSOCIATION—CANONS OF ETHICS

##### 6. ADVERSE INFLUENCES AND CONFLICTING INTERESTS

It is the duty of a lawyer at the time of retainer to disclose to the client all the circumstances of his relations to the parties, and any interest in or connection with the controversy, which might influence the client in the selection of counsel.

It is unprofessional to represent conflicting interests, *except by express consent of all concerned given after a full disclosure of the facts.* Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.

The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidences forbids also the subsequent acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.

## SECTION 177

## 5. DIVIDED LOYALTY

§ 177. *In General.*—A lawyer owes undivided loyalty to the interests professionally entrusted to him.<sup>14</sup> This general principle underlies several specific rules. Thus the Rules of Professional Conduct provide that a member of the State Bar shall not represent conflicting interests, *except with the consent of all parties concerned,*<sup>15</sup> and that he shall not accept professional employment without first disclosing his relation, if any, with the adverse party, and his interest, if any, in the subject matter of the employment.<sup>16</sup> The prohibition applies to successive as well as contemporaneous representation of conflicting interests,<sup>17</sup> and it imposes upon an attorney the duty to terminate his relationship to a new client when he has reason to believe that it may conflict with the discharge of his duties toward another client.<sup>18</sup>

The chief purpose of the rule prohibiting an attorney from accepting employment adverse to a client or former client without the client's consent, in a matter in which the attorney has obtained confidential information by reason of his employment,<sup>19</sup> is to protect the confidential relationship that exists between attorney and client.<sup>20</sup> It is in accordance with this principle that a receiver is not permitted to employ as his counsel an attorney representing other parties to the proceeding.<sup>1</sup> An indirect violation of the rule is committed by an attorney who causes his client to place himself in such a relation to the attorney that their interests might become antagonistic.<sup>2</sup>

The rule is designed, not alone to prevent the dishonest practitioner from fraudulent conduct, but as well to preclude the honest practitioner from putting himself in a position where he may be required to choose between conflicting duties, or be led to an attempt to reconcile conflicting interests, rather than to enforce to their full extent the rights or interests which he should alone represent.<sup>3</sup> Where an attorney is confronted with a situation of having to represent claims inconsistent with those of his client, or with conflicting claims of two clients, he must terminate the attorney-client relationship with the client on whose behalf and in whose interest he would be unable to devote his entire energy.<sup>4</sup> But it has been held that an attorney properly represented both an unmarried girl seeking adoption of her child and the couple who later adopted the child where the communications from the girl to the couple and to the attorney and vice versa were not confidential, and where the attorney told the girl it would be necessary for him to give any party interested in the matter all the information that would come to his attention.<sup>5</sup> And where minority stockholders bring an action against the corporation and its directors, seeking redress for alleged misfeasance in office by the directors, a former attorney for the corporation is not disqualified from representing the shareholders in such an action, unless there is some showing that in so doing he may be called on to breach a professional confidence previously entrusted to him by his former client.<sup>6</sup>

*An attorney is not absolutely forbidden to represent conflicting interests. He may do so with the consent of all parties concerned,*<sup>7</sup> in the absence of existing

<sup>14</sup> Canons of Professional Ethics, American Bar Association, canon 6.

<sup>15</sup> Rules of Professional Conduct, rule 7.

<sup>16</sup> Rules of Professional Conduct, rule 6.

<sup>17</sup> Cowdery, In re 69 C 32, 10 P 47; Galbraith v State Bar 218 C 329, 23 P2d 291; Sheffield v State Bar 22 C2d 627, 140 P2d 376.

<sup>18</sup> Pennix v Winton 61 CA2d 761, 143 P2d 940, 145 P2d 561.

<sup>19</sup> See Rules of Professional Conduct, rule 5.

<sup>20</sup> Jacuzzi v Jacuzzi Bros., Inc. 218 CA2d 24, 32 Cal Rptr 188.

Anno: Proripety and effect of representing interest adverse to former client, 51 ALR 1307, 52 ALR2d 1243.

Conflicting interests: vicarious disqualification after dissolution of partnership, 3 UCLA LR 105.

<sup>1</sup> Adams v Woods 8 C 306.

Anno: Existence of attorney-client relationship between attorney and one whose property he purchases at or through tax, execution, or judicial sale, 20 ALR2d 1280, 1309.

<sup>2</sup> Felton v Le Breton 92 C 457, 28 P 490.

<sup>3</sup> Anderson v Eaton 211 C 113, 293 P 788.

<sup>4</sup> Hammett v McIntyre 114 CA 2d 148, 249 P2d 885.

<sup>5</sup> Arden v State Bar 52 C2d 310, 341 P2d 6.

<sup>6</sup> Jacuzzi v Jacuzzi Bros., Inc. 218 CA2d 24, 32 Cal Rptr 188.

<sup>7</sup> Rules of Professional Conduct, rule 7.

or contemplated litigation between the parties so represented.<sup>8</sup> Nor does a mere possibility of a conflict of interests preclude him from accepting employment from two different persons. *For instance, the position of an attorney who acts for both parties, to the knowledge of each, in the preparation of papers needed to effect their purpose, and gives to each the advice necessary for his protection, is proper. Therefore, it is not considered to be inconsistent with professional ethics for attorneys to act for both parties in drawing up articles of copartnerships, in acting for grantor and grantee in the sale of real property, in acting for seller and purchaser in the sale of personal property, in acting for lessor and lessee in the leasing of property, and in acting for lender and borrower in handling a loan transaction, if done in good faith and with the full consent of all parties concerned.*<sup>9</sup> And where of two parties having engaged the same attorney to prepare certain documents involved in a business transaction between them neither gives to the attorney any confidential information entitled to the protection of the attorney-client privilege, the attorney is not subsequently disqualified from representing one of the parties in an action against the other involving the same transaction and documents.<sup>10</sup> But unless he has the consent of the other party,<sup>11</sup> he may not accept such representation if in the course of his former employment he has gained from the other party confidential information he will, or may, be called upon to use in litigation.<sup>12</sup>

Whether there is any inconsistency in representing particular interests must depend largely upon the facts presented by each case.<sup>13</sup> For instance, where two parties seek to accomplish a common end result and engage the services of a single attorney to implement their joint plan, the fact that one of the parties would have been better off not to have entered into the transaction is not in and of itself enough to make the respective interests so conflicting as to prohibit an attorney from representing them.<sup>14</sup> The fact that an attorney retained by the administrator of an estate acts also for one of the heirs as against other heirs, in an adversary proceeding related to the property of the estate, does not necessarily involve improper representation of conflicting interests.<sup>15</sup> And in an action for wrongful death caused by an industrial accident, an attorney representing the decedent's survivors as well as the compensation insurance carrier was held not to represent conflicting interests, where the litigation of the compensation claim had been completed, the award had been paid, representation of the insurance carrier had been assumed after action on behalf of the survivors had been brought, and the reasons for that assumption were fully disclosed to the survivors and approved by the court.<sup>16</sup>

Improper representation of conflicting interests may be a ground, not only for an invalidation of a fee agreement,<sup>17</sup> but also for disciplinary action.<sup>18</sup> But a lenient attitude may be taken in certain situations involving no actual harm, as where an attorney inadvertently became the attorney of an insolvent debtor, though he had previously accepted a retainer to represent a claim against said debtor,<sup>19</sup> or where an attorney, while representing an administrator for general purposes, also represented a creditor for a special purpose, and no injury to the estate was shown.<sup>20</sup>

Mr. EDMONDSON. A letter from Mr. Clarence A. Brechlin enclosing a letter from Mr. Brechlin. Mr. Brechlin, do you wish to file this for the record?

<sup>8</sup> *Lessing v Gibbons* 6 CA2d 598, 45 P2d 258.

An attorney is not precluded, in the absence of litigation, existing or contemplated, from representing adverse parties, provided his employment is within the knowledge and consent of each and he deals fairly with both. *American Box & Drum Co. v Harron* 44 CA2d 370, 112 P2d 332.

<sup>9</sup> *Lessing v Gibbons* 6 CA2d 598, 45 P2d 258 (it cannot be said as matter of law that attorney is prohibited from acting for both parties with knowledge and consent of both.)

<sup>10</sup> *Petty v Superior Court* 116 CA2d 20, 253 P2d 28.

<sup>11</sup> Rules of Professional Conduct, rule 5.

<sup>12</sup> *Galbraith v State Bar* 218 C 329, 23 P2d 291.

<sup>13</sup> *Lessing v Gibbons* 6 CA 2d 598, 45 P2d 258.

<sup>14</sup> *Moxley v Robertson* 169 CA 2d 72, 336 P2d 992.

<sup>15</sup> *Jones Estate* 118 C 499, 50 P 766; *Healy Estate* 137 C 474, 70 P 455; *McCabe v Healy* 138 C 81, 70 P 1008.

<sup>16</sup> *Burum v State Comp. Ins. Fund* 30 C2d 575, 184 P2d 505.

<sup>17</sup> *Anderson v Eaton* 211 C 113, 293 P 788.

<sup>18</sup> *Richardson v State Bar* 19 C 2d 707, 122 P2d 889 (attorney, while acting as administrator of estate, also acted as attorney for administrator of another estate against which first estate had a claim).

<sup>19</sup> *Luce*, In re 83 C 303, 23 P 350.

<sup>20</sup> *Collins*, In re 147 C 8, 81 P 220.

Mr. BRECHLIN. Yes.

Mr. EDMONDSON. If there is no objection, Mr. Brechlin's letter with the attachment will be made a part of the record at this point. Hearing no objection, it is so ordered.

(The documents referred to follow:)

BRECHLIN'S OF PALM SPRINGS,  
May 29, 1968.

Mr. LEWIS A. SIGLER,  
*Representative, The House Interior and Insular Affairs Committee, care of Palm Springs Spa Hotel, Palm Springs, Calif.*

GENTLEMEN: Attached is a copy of my letter of October 19, 1967, to Mr. Robert Cox. Although I received a reply to my letter, as of this date, he has not answered my questions.

Upon my insistence, I was given permission to look at Mr. Cox's Preliminary Report and given photo copies of part of it. From these copies, I found I was named *Successor* Executor for the following:

Winifred Patencio Preckwinkle—whom I represent as Conservator; John Joseph Patencio—Father of Winifred; Frances S. Patencio—Mother of Winifred.

I have known both John Joseph and Frances Patencio since 1945 and had no knowledge of the fact that I was named as Successor Executor. I did have knowledge of the fact that I was named Successor Executor for Winifred as I was, and still am, her Conservator. Who would better know her estate?

Now, I ask this question of you: Since there are over 100 Indians in Palm Springs, do you think that being Successor Executor on three (3) wills should warrant this statement in the Preliminary Report? Such statement is partially quoted in my enclosed letter, 2nd paragraph, and was also on a front page of the *Daily Enterprise*.

I firmly feel that Government employees should be as careful in their actions as any other individual and if they libel people, should be subject to suit unless they publicly retract the statements.

Yours truly,

CLARENCE A. BRECHLIN.

PALM SPRINGS, CALIF.,  
October 19, 1967.

Mr. ROBERT COX,  
*Chairman, Secretary Task Force,  
Bureau of Indian Affairs,  
Palm Springs, Calif.*

DEAR Mr. Cox: Please refer to my letter of October 13, 1967, which reads as follows:

"As a matter of information, I would like to know from you which wills I am supposed to be involved in. Please state the date of the instrument, name of Testator or Testatrix. Am I named Executor or Contingent Executor? It would be nice to know these things. Also is there any evidence that I was supposed to know about this when it was done, other than the estates that I represented.

"According to the *Daily Enterprise* dated October 13, 1967, I quote, 'other persons heavily concentrated in the Conservatorship program and involved in wills are Judge E. E. Therieau, Attorney James Hollowell (who took over the practice of Judge Therieau upon the latter's appointment to the Municipal Court bench in October 1961), Clarence Brechlin, Lou Levy and Lawrence Crossley, deceased'.

"I would also like to know your definition of 'heavily involved.'"

On Monday, October 16, 1967, I reviewed this letter with you personally, and you verbally agreed that I was entitled to specific answers. Today, I received your letter dated October 17th and you have not answered my questions. I am sure if the situation were reversed, you would also be upset and angry with the run-around treatment. I am again requesting that you give me—in writing—the answers that I requested. Since you cannot seem to comprehend the questions I asked in my letter, I will set them forth herewith:

1. Which wills am I involved?
2. Date of the Instruments?
3. Testator or Testatrix is whom on each will?
4. Am I the Executor or contingent Executor (you call Successor)?

5. Is there any evidence that I was supposed to know that I had been named on any of these wills?

6. What is your definition of 'heavily concentrated and involved in the Indian Wills'?

Since you are the Chairman of the Task Force, I assume you are responsible for the phraseology of the Report; therefore, fully responsible for any injustices which may be done to any individuals who have been named in The Report. . . . I will be awaiting your reply.

Very truly yours,

CLARENCE A. BRECHLIN.

Mr. EDMONDSON. We will then, this afternoon, hear Mr. Hill, Mr. Hollowell, and Mr. Cleary and I expect, looking at the length of statements of Mr. Hollowell and Mr. Cleary, that this will be fairly extended testimony, so we will be here at 2 to begin taking their testimony.

Are there any other individuals now who wish to be heard as witnesses? Now, I want to remind you of the announcement I made at the start of the hearing and have made once since. You must notify Mr. Sigler, and you must supply him a copy of your statement, and we would like to have copies for each member of the subcommittee supplied at that time, if possible.

Please take care of that immediately, if you want to be heard this afternoon.

The subcommittee stands in recess until 2 o'clock.

(Whereupon, at 12:15 p.m., the subcommittee was recessed, to reconvene at 1 p.m., on the same day.)

#### AFTERNOON SESSION

Mr. EDMONDSON. The subcommittee will come to order.

Before the noon recess, I announced that Mr. Hill would be our first witness this afternoon. Mr. Hill has asked permission to file, as a statement, his letter to Mr. Tunney dated May 31, 1968, and if there is no objection, this letter will be made a part of the record at this point. Hearing no objection, it is so ordered.

(The document referred to follows:)

BANK OF AMERICA,  
*Palm Springs, Calif., May 31, 1968.*

HON. JOHN V. TUNNEY,  
*House of Representatives,*  
*Washington, D.C.*

GENTLEMEN: I appreciate the opportunity of meeting with you this morning individually, and as a representative of the Bank of America NT&SA, Palm Springs District Trust Office.

By way of information only, this is a position which I have held since the fall of 1967, and therefore I am not familiar with the wealth of material and reports which exist and have previously been reviewed by your committee; however, I would like to take a moment of your time to review just one small but very significant part of the investigation having to do with the fees which have been charged in connection with the administration of the Conservatorship and Guardianship Program during the past eight years.

As you are aware, a court-appointed guardian or conservator is responsible for the complete management of the assets under his control for the benefit of the beneficiary.

It might be well to ask "What does the Bank do in regard to the management of securities and real properties?"

Let us just explore some of the services we provide in connection with security investments and some of the values which the ward or beneficiary gains from these services.

Each guardianship or conservatorship account is reviewed by senior officers of the Bank to ensure that it meets the ward's personal investment objectives. A Trust Officer and Portfolio Investment Officer are assigned to the account. Their constant personal supervision and responsibility are backed up by the experience and facilities of the world's largest bank. This individual service enables us to provide a sufficiently flexible investment program to meet the needs of any portfolio.

The Trust Department has at its disposal a large research department. Our extensive files of financial information, our national and international financial connections, as well as our contacts with thousands of business and government officials—all are used by the Bank's investment men in arriving at decisions regarding the investments.

We gain valuable inside information through our regular banking transactions—information the individual investor would find difficult to come by. As a leading underwriter of tax-exempt California and municipal bonds, and as a major factor in the Government bond market, we have up-to-the-minute information on bond issues and prices everywhere. We have new information every day on industrial and economic trends as well as on individual companies. All this information is at the disposal of our staff of security analysts who study stock values on a full-time basis.

The Bank's Trust Committees, consisting of senior bank officers from all departments, examine and approve all investment recommendations. Each individual account benefits from their review and group decisions. These men bring years of experience in all areas of finance to bear on each portfolio.

Our investment suggestions are strictly unbiased. We have no other interest than to serve the individual's interest. We have no securities for sale, nor do we receive any commissions or profits on transactions.

Now let me turn for a moment to real property held as an asset of a trust. We are responsible for not only the day-to-day maintenance and operation of a parcel of real property, but also to actively manage and market property to its full potential. This takes a keen knowledge of the community—its proposed development, values of land, and a knowledge of construction costs, together with the availability of money and its cost.

Real properties held as assets of a trust are under the complete supervision and direction of a Trust Committee which is composed of the branch managers in this area, who through their lending and banking experience are in a unique position to guide and direct the development of real estate.

Keeping in mind the previously mentioned activities, let me proceed to briefly explain other duties which the guardian or conservator performs as part of its management responsibility:

1. Prepares and files all necessary reports and tax returns required of various businesses, real estate, and other interests in the trust.
2. Prepares and files state and federal income tax returns which pertain to the trust.
3. Makes certain that taxes on real and personal property in the trust are assessed fairly and paid on time.
4. Sees that the assets are adequately protected by insurance or other required care.
5. Make necessary entries, reports, and payments in management of the assets.
6. Consults with and arranges living allowances for the immediate family.
7. Assembles and inventories all assets of the trust.
8. Has all assets properly appraised.
9. Keeps real property in good repair, maintains rental of income property, and collects rents.
10. Pays all real and personal property taxes when due.
11. Collects dividends and any other income from security or bond investments, and attends to all investment matters.
12. Accounts for all moneys received and disbursed by the trust, and submits a detailed report thereof to the court and other interested parties.
13. Makes final distribution as directed by the court.

As you will note, these duties are all concerned and connected with the management of the physical assets held in a trust.

I am sure you will appreciate that the management of assets cannot be completely separated from the guardian's or conservator's involvement with the human and personal problems of the beneficiaries. This particular phase, which we call the human or personal aspect of our administration, does require many, many

extra hours. It is as necessary an ingredient to the proper completion of the guardian's or conservator's work as it is for the congressman to know what the opinion of his constituents is on an important piece of legislation.

Although the conversations, conferences, and discussions of this nature are not generally reduced to writing or formal memos, they are most important in the management of property. Therefore a dialogue between the beneficiary or the minor's guardian of the person is most important to the management of the assets and is time-consuming.

The fees generally allowed and considered reasonable for the management and responsibility of these assets and the production of income are  $\frac{3}{4}$  of 1% of the reasonable market value of the assets.

The Probate Rules of one county read in part as follows:

"The rate of  $\frac{3}{4}$  of 1% per annum of the reasonable value of the corpus of the trust estate at the time such compensation is taken shall ordinarily be deemed reasonable compensation; subject, however, to the court's discretion either to increase or reduce such compensation, depending upon the work performed, the responsibility assumed, the results accomplished, and other factors. . . ."

It occurs to me that there is a question regarding the reasonableness of the basis for determining fees at the rate of  $\frac{3}{4}$  of 1% per annum of the market value.

Let me cite a few examples of fees paid and accepted by the public as reasonable.

A real estate broker receives in this community, like most other communities, a 10% commission on the sale of unimproved real property, and a 6% commission on the sale of a residence, both based on the market value of the property sold. These transactions many times are completed within a 30-day period.

A conservator or guardian, on the other hand, is paid only a fractional percentage of 1% for an entire year's management of a variety of assets.

This appears realistic when related to that of a broker's commission, and based on the work performed, responsibility assumed, and results accomplished.

Let me cite another example—that of the fees charged for the management of mutual funds, which are well-known to all of us.

Based on statistics taken from the annual issue of Forbes Magazine, which rates these investment funds generally in August of each year, I computed the average cost for management, custodial, and operating expenses of 223 funds to be approximately  $\frac{1}{2}$  of 1% of the asset value. The management costs varied from less than  $\frac{1}{4}$  of 1% of the asset value to more than 3%. The *average* of the 223 funds, however, is approximately  $\frac{1}{2}$  of 1% of the asset value.

Now, a guardian's duties encompass a great deal more than just the management of security investments. For example, we are responsible for determining, usually after many hours of consultation the advisability of discretionary payments, the adequacy of insurance, the payment of monthly bills, and, in summary, the management of the ward's everyday affairs, for which the reasonable compensation is  $\frac{3}{4}$  of 1%. You will note that this is less than the average cost of the charges for the management, custodial, and operating expenses of mutual funds.

Now let me refer to that section of the U.S. Department of the Interior's Report on the Administration of Guardianships and Conservatorships for the Members of the Agua Caliente Band of Mission Indians Dated March 1968, regarding fees.

You will note on page 9 that the audit information relates fees paid to total receipts, rather than fees paid as a percentage of the reasonable market value of the assets which the guardian or conservator is responsible for.

Although this is a departure from the norm, it is interesting to note that the Task Force Report dated March 1968, indicates that fees paid as a percentage of total receipts vary from 10 to 12% of these receipts. I would like to call your attention to the fact that the Treasury Department's Report to Congress regarding private foundations, dated February 2, 1965, indicates that expenses incident to the production of income amounted to 9.67% of income receipts. This report covers the investigation of 14,865 foundations. In view of this, it does not appear that the averages as noted in the Cox Report dated March 1968, are excessive.

In reviewing the American College of Probate Counsel's "Fees of Executors, Administrators, and Testamentary Trustees", I note that in almost all instances, the fees to be paid to a trustee are left to the discretion of the court, and are not set forth in detail under any state statutes, as is the case with executors' commissions.



It is interesting to note that we have used as a guideline to reasonable fees  $\frac{3}{4}$  of 1% of the reasonable market value of the assets being administered. This guideline is similar to those used in San Diego, Orange, and Los Angeles Counties. In addition, I observe that this is the same basis on which trustees' fees are calculated in the State of Utah. In the States of Oklahoma, Kansas, and Ohio, trustees' fees are generally based on  $\frac{1}{2}$  of 1% of the reasonable market value of the assets administered.

As indicated above, the report dated March, 1968, relates fees paid to guardians and conservators as a percentage of receipts, which again is a departure from the norm; however, the receipts in these instances, are unrealistically low in relation to the reasonable market value of the assets, due to unproductive real property.

It is my understanding that the total carry value of the assets, exclusive of trust lands, amounts to \$35,400,478.45 for the period covered by the accounts.

The reasonable market value of the real property amounts to approximately \$256,000,000. The total estate managed by guardians and conservators, therefore, amounts to \$291,400,478.

A reasonable fee based upon what I have said, therefore is \$2,185,503.

According to the Report, fees paid to guardians and conservators, their attorneys, and real estate brokers, amount to \$1,904,682, or approximately \$280,820 less than those which would appear reasonable.

Based upon the total guardianship program and the costs incident thereto, it does not appear to be excessively costly to the beneficiaries when we consider that the fees paid are for the guardian's or conservator's responsibility in managing the assets. There may be individual instances where the fees appear to be high or low; however, these matters have all been reviewed in detail before the court at such time as the accountings were heard and approved. It occurs to me that any parties to the proceedings who felt that the fees requested were not proper would have ample opportunity to be heard.

E. W. HILL, *Trust Officer.*

Mr. EDMONDSON. During the morning, the committee heard testimony regarding the failure of some members of the tribe to receive ballots in the election in March, and during the noon recess, we asked the Bureau of Indian Affairs representatives if they could account for this. The chairman was informed that three ballots were returned as not claimed by members of the tribe, and that a check with the postal officials revealed that each of the three people whose ballots were returned lived on a rural route, and according to the rural carriers had been left a notice in their box that registered mail was at the post office for them, and it could be picked up at the post office.

According to the Bureau of Indian Affairs representative, these letters containing ballots were held for the required regular period of time at the post office to be picked up, and then returned to the Bureau of Indian Affairs office in accordance with the law, and not having been claimed by the three individuals who were addressees.

Now, I have asked that the committee be supplied with a signed letter by an official of the Bureau of Indian Affairs documenting this with facts and with dates, where available, and with postal names where available, and I have been assured that that letter will be supplied for the record, so if there is no objection, that letter will be made a part of the record at the appropriate place.

Hearing no objection, it is so ordered.

(The information follows:)

UNITED STATES GOVERNMENT MEMORANDUM

MARCH 26, 1968.

To: Files.

From: Administrative Officer.

Subject: 1968 election for chairman and two members.

On this date the Administrative Officer received in the mail 4 letters which had been dispatched CERTIFIED—RETURN RECEIPT REQUESTED. These letters were UNCLAIMED and contained ballots for the Tribal Election. They were addressed to: Eileen Miguel, Richard Amado Miguel, Robert Steven Saubel and Dorothy Rice. Contact was made by phone with Eileen and Richard Miguel and it was stated by them that they were never notified by the Post Office to pick up their certified mail. The Post Office was contacted and it was learned that Eileen and Richard Miguel WERE notified on 3/8/68 through the regular Post Office procedures. The date of notification was so noted on the returned mail. Mr. Krasken, the head of the Post Office Annex said the Post Office would be happy to verify this. I was unable to contact Robert Steven Saubel as this office does not have a current phone number for him. Also, it was noted that Mr. Saubel was notified by the Post Office in the same manner as the Miguels.

EGBERT B. WARD.

Mr. EDMONDSON. Our first witness this afternoon, if he's here and ready to proceed, is Mr. James Hollowell. Mr. Hollowell, would you come forth, please?

Mr. Hollowell, this is a rather long statement, and I am a little bit embarrassed about asking you to stand for that period of time.

Mr. HOLLOWELL. Thank you.

Mr. EDMONDSON. So, we will try to make an arrangement for you so you can sit, because I know this may be an extended period of time, and we would not like to put any burden on you in terms of standing too long in one place.

Mr. HOLLOWELL. Thank you. Before I go into my statement, we heartily appreciate your being here. When this thing, as I put it, happened to us, we immediately contacted our Congressman, John Tunney, feeling that this would be the only forum in which we could be heard and all I can say is, Mr. Tunney has performed admirably, and we are just tickled to death that you are here, and that we can have our say, so to speak.

I felt it incumbent upon myself, in representing the association, to inquire as to the judges and the judges felt that this was not the proper forum for them and, therefore, the judges are not here.

Mr. EDMONDSON. What association were you representing in that—

Mr. HOLLOWELL. I'm president of the Association of Conservators, Guardians, and Allottees of the Agua Caliente Indian Lands and Estates.

Mr. EDMONDSON. And, in that capacity are you and Mr. Cleary also testifying as representatives of that organization, or are you the spokesman for that organization?

Mr. HOLLOWELL. In order to keep from having a multiplicity of one individual after another getting up and denying certain allegations, Mr. Cleary will cover the broad spectrum and this is to cover the many small witnesses. Since I am a major-named target of the task force, I am speaking for the association and then I will cover specific areas of charges of misconduct on my part which, obviously,

the committee might want to question me on, and I saw no need having Mr. Cleary represent me in that regard.

Mr. EDMONDSON. All right, sir, you may proceed.

**STATEMENT OF JAMES HOLLOWELL, PRESIDENT, ASSOCIATION OF CONSERVATORS, GUARDIANS, AND ALLOTTEES OF THE AGUA CALIENTE INDIAN LANDS AND ESTATES**

Mr. HOLLOWELL. My name is James Hollowell. I am an attorney licensed to practice in the State of California and the State of North Carolina and in the U.S. court of military appeals.

I have been practicing law in Palm Springs since April of 1958 and have specialized in Indian affairs and have represented approximately one-third of the local tribe for the past 6 years. For the past 2 years I have served as president of the Association of Conservators, Guardians, and Allottees of the Agua Caliente Indian Lands and Estates.

I have already given my exhibits to Mr. Sigler, your counsel, so I will just make reference to them here. A copy of the constitution and bylaws has already been offered as my exhibit "A."

The purpose of this association is to advance and improve the capabilities of the members of the association in guarding and conserving the estates of the wards and conservatees under their control and management by coordinating the development of Indian land to its best and most profitable use.

While this purpose is broad, the intent of the association at its inception was to unify the presentation to Palm Springs and the world at large of the lands of the Agua Caliente Indians so that they could be put to their most profitable use in the most efficient manner.

At our inception we were immediately met with opposition from the tribal council. After that meeting, members of the council refused to belong to our association and maintained that the association was duplicating efforts of the council and Bureau. Unfortunately, the Bureau at the time of the inception of our organization, was making no efforts whatsoever to actually promote the lands of the Agua Caliente Indians. As a matter of fact, the few efforts that were made before and after the inception of our association were inept in that the Bureau, through directives and policies in Washington, set such ridiculous standards for the leasing of Indian lands, that for a good period of time after the inception of the conservatorship program and the establishing of our association, the Indian lands were unleaseable because of the impractical conditions placed thereon by the Bureau and the Secretary of the Interior.

Such things as a 5-year nonoptionable lease and a 25-year nonmarketable lease are examples of that of which I speak.

On behalf of the association and its members, I would like to state that we have no ax to grind. We are not appearing here today in order to promulgate the system and thus our respective positions as fiduciaries. We have appeared here today for one reason and that is to rectify as best possible, the damage which was done to many reputations by the false and slanderous report prepared by Robert L. Cox and Barry K. Berkson and, second, to attempt to communicate to this committee a true factual picture of the conservatorship program as it has worked in the past, so that this committee can more intel-

ligerly determine what, if any, legislation is needed to assist the Agua Caliente Indians.

Immediately following last year's unwarranted statement by said Secretary Udall, the vast majority of people involved in the conservatorship program felt that it would be fruitless to fight city hall, so to speak, and thus have participated little, if at all, in the attempt to ascertain and present the true facts to you today. Those of us who are here are, however, interested as I stated before in letting you gentlemen know the conditions that do exist, so that the legislation which is adopted will be for the benefit of all concerned, and not merely continue in a hodge-podge fashion, the inept system now in existence for caring for the members of this tribe by the Bureau of Indian Affairs.

Virtually the first act of the association was to determine the advisability of opening up an office in the city of Palm Springs wherein maps, aerial photographs, zoning ordinances, and all other pertinent documents relative to Indian lands could be maintained at one central location. We had hoped to staff this with a former retiring member of the Bureau of Indian Affairs, who would be well-versed in the problems concerned with leasing and/or purchasing of Indian lands and we therefore had intended to nationally advertise the availability of these lands.

Our efforts to establish this office met with opposition immediately from the tribal council, who felt we were infringing upon their rights and who felt that the Bureau could handle this task more readily and publicly stated so. Unfortunately, the Bureau was not equipped either physically or temperamentally to aggressively promote Indian lands as our association had anticipated, that we would do. Having met with such staunch opposition from the tribal council, our plans in these regards died a natural death.

The first constructive activity undertaken by the association was in connection with proposed zoning of section 14 by the city of Palm Springs, Section 14, as you know, is wholly Indian-owned and is in the heart of downtown Palm Springs. The city council proposed zoning for this section. I, with my extremely limited experience in zoning, felt it was improper zoning, as it was too restrictive and oppressive. The association agreed with me and we engaged the services of Herman Raney, a city planning consultant and former planning director for the city of Palm Springs. At public hearings held by the city of Palm Springs in connection with the proposed zoning, Mr. Raney, on behalf of the association, violently objected to the zoning which was being offered, although the tribal council tentatively approved the zoning and the Bureau remained mute. After our initial objections, the tribal council engaged their own planning consultant who concurred with Mr. Raney and the association that the zoning was improper and too restrictive for the Indians. Part of the association's funds were spent for Mr. Raney's services and my services as an attorney as I collaborated with Mr. Raney in the preparation of some of the presentation.

Following the tribal council's engaging of their own consultant, the association had Mr. Raney finish the project. We presented Mr. Raney's proposal to the Bureau and then we withdrew from the activity because of the heated objections from the tribal council.

When the investigation commenced in 1967 by the special task force, headed by Robert L. Cox, from the public announcements made by

the Secretary of the Interior, it was obvious that the investigation would not be an impartial one, but would attempt in some way to distort the facts and mislead Congress. We thereupon engaged the services of Henry Cleary, an attorney, to investigate the overall program and to present to Congress, if we were fortunate enough to have this hearing, what we found to be the true facts attendant upon this program, going into the audit report matters. We have paid Mr. Cleary \$1,500 on account of his fees and several hundred dollars on account of actual costs to date.

Subsequent events have proved the soundness of our reasoning since the report, which was concluded in March of 1968, is one of the most gross distortions of facts that it has been my misfortune to encounter.

Before leaving my comments on the association, it should be pointed out that at the time the association was organized, section 14 was potentially one of the most valuable pieces of real property in the desert, yet one of the most degrading sights in that it constitutes a dismal slum area. This slum area had been encouraged by the Bureau of Indian Affairs through their lack of foresight, in granting 30-day permits and only authorizing 5-year leases on any Indian land. No tenant whatsoever with any practical approach to real estate development would put up any more than temporary buildings or the tarpaper shacks, which were replete throughout section 14. The association took the initiative in the program of clearing the slum. The city of Palm Springs cooperated and paid some of the costs. The Bureau took no part therein, other than to approve our actions.

While I realize this committee is here primarily for the purpose of ascertaining facts which will enable them to adopt effective legislation, I feel it incumbent to make a few remarks in response to the slanderous accusations made against me by Mr. Cox in his privileged communication known as the task force report.

On page 11 of the report, Mr. Cox accurately points out that Judge Therieau and I have been awarded altogether, and I emphasize the word "awarded," fees approximating 30 percent of the total fees awarded. The fact that the fees have been awarded does not necessarily mean that they have been paid. I personally have a substantial amount of fees which have been awarded, but for which the estates obligated at this time have no funds with which to pay. It must be kept in mind, however, that Judge Therieau and I did approximately one-third of the work involved in handling all of these tribal estates over the past number of years.

Illustrative of this is the fact that on page 19, Mr. Cox points out that there is some \$24,700,000 in anticipated future rents from the existing active long-term leases. This means leases which have not defaulted. I personally have been involved and participated in negotiations, and drew six of those leases which will produce some \$7,700,000 in income. In addition to the active leases, I was also involved in preparation and negotiations involving four other leases, which at the time of their inception had an anticipated average income of \$11,964,000.

The fact that these leases are no longer in existence is regrettable and is a loss to the Indian lessors, but it should in no way reflect upon or diminish from the services required of myself in negotiating these

leases, because it has always been the policy of the Bureau of Indian Affairs, before approving any lease, to remove from the conservator's realm of jurisdiction the field of passing upon the financial qualifications of the prospective tenant. Each of the tenants of the leases which have failed have been individually approved as to financial ability by the Bureau of Indian Affairs.

On page 28 of the task force report it is stated, "Hollowell charged both Mr. Fey and the Patencio estate for the same work."

Gentlemen, this is an outright lie.

The report refers to exhibits 23 and 24 as ostensible proof of the charge. Now, I've prepared a rather lengthy detailed statement which Mr. Sigler has in which it goes in greater depth than I have here.

Exhibit 23 is photographs of checks and a recapitulation of sums paid by Mr. Fey to me. This exhibit is accurate.

Exhibit 24 is the accounting covering the year 1963. I received funds from Mr. Fey in the year 1963 as reflected by exhibit 23. I filed an accounting for the year 1963 as reflected in exhibit 24.

It must be remembered that with the establishment of the conservatorship and guardianship program in the Palm Springs area following the year 1959, there were no guidelines for the courts, the Bureau, or the attorneys or conservators or guardians to follow. The policies followed by the courts in demanding accountings and requests for fees has evolved to the one now followed.

Until 1964, when the policy memorandums were promulgated by the superior court, which memorandums are exhibits to the report, the practice which had been followed theretofore was that generally followed in other probate cases, and each case was handled differently depending upon the particular attorney and fiduciary involved.

It was my practice in the year 1963 to file an accounting specifying the number of hours I had devoted to the particular estate and to request compensation on an hourly basis. In conjunction with the 1963 accounting, I forwarded to Judge McCabe a letter setting forth the number of hours that I had devoted to that particular estate. This letter was and is inserted in the superior court file involving this estate. The task force report conveniently neglected to include that letter as part of exhibit 24, although it is an integral part of exhibit 24. Had the auditors been permitted to confer with me, they would have found that the time devoted to obtaining rights-of-way and other legal orders for Mr. Fey had not been charged against this estate, but were charged against Mr. Fey. Accordingly, there is no duplication of services or charges for the year 1963.

An even more flagrant abuse of the truth by the task force is their accusation that I double-charged in 1964. Mr. Fey did pay me money in 1964. My accounting for the year 1964 sets forth in detail the work I did at the request of Mr. Fey involving this estate and sets forth in detail the fact that I had been paid by Mr. Fey and was not charging this estate for any of the work paid for by Mr. Fey. Exactly the same situation existed for the year 1966. There were no services to Mr. Fey in 1965. Exactly the same situation existed for the year 1966. The fact that the accountings for the periods of 1964 and 1966 were not included as part of exhibit 24 cannot be condoned as an oversight by the task force for the simple reason that the task force at one time or another

had the official court files in their possession for a total of 155 days, and such an oversight must be presumed to have been intentional.

Mr. EDMONDSON. Mr. Hollowell, could I get clarification on that one point?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. Looking at exhibits 23 of the task force report, it shows Canyon View Estates payments to James Hollowell. Are you attorney for Canyon View Estates?

Mr. HOLLOWELL. Yes, sir. When I say "Fey," I mean the same thing.

Mr. EDMONDSON. It shows the payments for the years 1963, 1964, 1966, and 1967. It shows that in 1965 none were made. Are you aware that this document appears in exhibit 23?

Mr. HOLLOWELL. Oh, yes; I'm very aware of it and very familiar with the document.

Mr. EDMONDSON. Would you clarify what you mean by saying the failure to show the payments that were made in this exhibit was understandable, if I understand you correctly?

Mr. HOLLOWELL. Yes, sir. If the investigators had included the accountings covering the years 1964 and 1965, I stated in those accountings services rendered in regard to Fey and the fact that they were paid for by Fey, by omission they come up with this double-charging thing where I openly disclosed it.

Mr. EDMONDSON. You mean, by failure to detail what these charges were for in 1963 and 1964, that there has been a total omission. Is that the point you're making?

Mr. HOLLOWELL. Yes, sir. If they had included the accountings, I don't see how they could make the charge.

Mr. EDMONDSON. Thank you. Pardon me for interrupting you, but I was looking at that when you testified and I didn't understand quite what you meant by that. Thank you.

Mr. HOLLOWELL. The next exhibit which Mr. Sigler has is a file folder with a detailed statement of the Roy Fey matters, which I am sure your counsel can examine and inform you of the statements. I wouldn't expect to take the committee's time to go through that file now. On the inside of that exhibit on the top is a letter from the superior court showing when the task force had these particular files, so I'm not making a pointed accusation. They had the files for quite a while.

I have thereafter placed all of my accountings in the matter of Ray Patencio, together with all petitions, orders, and exhibits in regard to Mr. Fey in that file. You will find my letter dated February 23, 1964, which was omitted deliberately by Mr. Cox, and my accountings for 1964 and 1966, which puts the lie to this particular accusation. The miscellaneous documents concerning Fey are included in this exhibit so that your counsel can easily ascertain, in addition to the above, what I am about to say now.

Before leaving the double-charging accusation, please note that both the 1964 and 1966 accountings have an affidavit of mailing showing that they were mailed to the local Bureau of Indian Affairs office, which is additional proof that they had full knowledge of the contents of those accountings of my work for Fey.

Now, briefly turning to the "Fey statement" which is included in exhibit 23 of the task force, it is interesting to note in passing that this does not by any means purport to be a verbatim statement and is the

interpretation of a statement by Mr. Fey to representatives of the Bureau.

Mr. Fey was developing substantial amounts of real property in parcels. He was subdividing the real property and thereafter subleasing the individual units therein. As he subdivided each tract or series of tracts, it was necessary to obtain a court order approving the proposed subleases. Mr. Fey, early in his tenancy, discovered that his own attorneys at times were ill equipped and uneducated in the requirements established and maintained by the Bureau in regards to subleases and other matters and, therefore, called upon me from time to time to assist him in the obtaining of these court approvals. He knew, and I advised him, that I was representing the Indian landlord. He stated he would pay for my services because he expected and required prompt action in connection with all of his sublease and financing approvals.

Naturally, I was not going to perform extraordinary rush services at the request of a tenant and charge the landlord. Therefore, Mr. Fey did pay for these particular services.

When Fey had a tract which had been completed and needed a sublease approval before he was going into one, he wanted the approval as expeditiously as possible, and I performed these services for him, charging him for the services that I performed. By inference, the statement contained in the report is that I charged him for approval of each particular sale he sought, but Mr. Fey determined the extent of the orders that he sought.

As an aside, gentlemen, Mr. Fey prospered, I think, largely because he was a cautious man. He gets a large piece of property, divided it up and progressed in small parcels rather than going into the whole project at once and then being stuck with houses, so as he went along, he would need a court order authorizing the next 18, 20, or 30 units. Now, those petitions are voluminous. Your counsel can look at them. The petitions cover not only the standard form of sublease, but financing agreements, TV, notes, and the like.

Mr. Fey thereafter on each draft would then have the complete format. He would not have to come back to Jim Hollowell for any more work.

The alleged statement that I was—complaints that I was stalling him in not obtaining full powers for the conservator. If Mr. Fey had a complaint, he could have gone to the conservator who, in fact, did not want full powers, who, in fact, wanted court approval on every act because of the complexity of the development of Mr. Fey's project and the liability attaching to the conservator should he act improperly without prior court approval.

I have gone to the time and expense of preparing exhibit B because I think that when you get back in Washington, your counsel can give you the meat of the matter.

I direct your attention—the attention of the committee counsel—to the complexity of these subleasing and financing arrangements, and when we talk about an *ex parte* order, we're not talking about something I can whip out in a minute or two.

The task force sets up as a special heading "Alleged Misuse of Conservatorship Proceedings" and cites as examples of their conclusion two estates, each of which I personally was involved in.



In the estate of Edmund Peter Siva, the matter is still pending in the courts. It is not uncommon for an attorney to lose in the trial court and prevail at a subsequent hearing. In the matter of Mr. Siva, the fact that a conservator was not appointed for him in the trial court, while costly to Mr. Siva and to those who were petitioning for the appointment of a conservator, is not conclusive on the propriety of the establishment of a conservator for the simple reason that the decision of the trial court will be appealed, but the time has not yet elapsed.

In the matter of the estate of Eugene Segundo, the report not only—

Mr. EDMONDSON. Mr. Hollowell, would you suspend for just a minute?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. We haven't located—we're having a little difficulty identifying which is exhibit B.

Mr. SIGLER. Is this it?

Mr. HOLLOWELL. That's my statement. Open up the file, Mr. Sigler.

Mr. SIGLER. Is that the file for exhibit B?

Mr. HOLLOWELL. That's it, and the letter should be on the bottom of that pile of papers on the top, from the clerk's office.

Mr. EDMONDSON. And, the substance of exhibit B then consists of the pleadings that you have filed with the court roughly, from 1962 to the present time?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. All right.

Mr. HOLLOWELL. Mr. Segundo petitioned for the removal of myself as his conservator and the appointment of another fiduciary. I did not object. His wife, with whom he was engaged in a divorce action, did object, not to the change of conservator, but to the appointment of the successor who had been nominated by Mr. Segundo.

A long, involved, drawn-out fight ensued. Where Mr. Cox concludes that it was a simple 1-day hearing is beyond my comprehension. A contested fight involving as many witnesses and issues as this one did could never have been concluded in 1 day.

What Mr. Cox may have meant was that had the matter gone unopposed, as it would have if the wife of Mr. Segundo had not appeared in the action, the matter could have been handled by an ex parte order, which could have taken just about 5 minutes. The fact that it extended over the period of time that it did cannot be laid at the feet of any individual or institution.

The estate of Mr. Segundo was not charged with the \$4,000 fee of his wife's attorney. This claim was not only objected to by the Department, but it was objected to by Mr. Segundo through his own attorney.

The fees requested by me at the conclusion of my tenure as conservator covered not only the services rendered as conservator, but did cover the time spent in court. I appeared in court in connection with the change of conservators on numerous occasions, having been subpoenaed by the wife's attorney. Mr. Cox concludes the paragraph concerning this estate by a very misstatement of California law to the effect that it is not permissible for a conservator to charge fees for legal work. This is not the law.

My next exhibit is C and it contains my legal points involved in

the matter of Mr. Siva and the legal points filed by the amicus in regard to Eugene Segundo, and there again, I think your counsel can inform you in Washington. Your counsel can peruse these documents and advise you in regard to Mr. Siva. If he checks the legal points filed by the amicus in the matter of Mr. Segundo, he will find that all of the cases cited by the U.S. attorney do not actually state the proposition of law propounded by the amicus and the U.S. attorney, and brazenly set forth with no citation in the task force as a bold statement of actual fact.

Under the heading "Involvement of Individuals," the report attacks Stanley Spiegelman, one of my clients. The opening paragraph of the report concerning Mr. Spiegelman states that the audit reveals "an apparent overstatement of assets." In the initial audit conducted of Anthony Joseph Andreas, Jr., the auditors made a note that there was an apparent overstatement of assets because Mr. Spiegelman, as conservator, had purchased a one-half interest in a parcel of land for \$14,000, but he was carrying the land at \$30,000. The auditors apparently did not note that an interest in tract 39 was involved in both the acquisition and the accounting and that Mr. Andreas already owned half that property. I do not personally know if the auditors examined the court records, but if they did, they would have ascertained that the petition for authority to purchase a one-half interest for \$14,000 clearly showed that Mr. Andreas already owned the other half interest. Therefore, after the acquisition of the half interest from the Crossley estate, Mr. Andreas owned 100 percent interest. The half interest in the Crossley estate had been valued at \$15,000, and even though the purchase was for \$14,000, the combined half interests had been appraised at \$30,000 and that's the figure I carried in the accounting.

Of great interest on this point, however, and illustrative of the impartiality of the task force and the fairness of the task force, the chief of the auditing section acknowledged to me that this discrepancy could have and normally would have been discovered during a final auditing conference, but none had been held with Mr. Spiegelman. Mr. Broussard, the auditor, advised me that Mr. Cox had specifically instructed the auditing team to conduct no final conferences up to the time of the interim report.

Mr. Spiegelman, along with Judge Therieau and myself, is accused by Mr. Cox of alleged wrongdoing for not attempting to recover from the estate of Mr. Crossley the half interest that was subsequently purchased on behalf of Mr. Andreas. Mr. Cox claims that Mr. Andreas would have inherited this half interest had action been instituted to recover the property for the estate of his grandmother or himself. Such is not the fact because the grandmother's will, which I drew, would have left only one-third thereof to Mr. Andreas.

The facts existing at the time of the transaction were that Mr. Andreas claimed that Mr. Crossley was holding title to the property for the benefit of his grandmother. Assuming these facts to be true, nothing could be done under California law, for the simple reason that we had in effect at the time what is commonly known as the "dead man's statute." A claimant could not testify against a dead man. Mr. Crossley was dead. There were no other witnesses to Mr. Andreas' claim. Mr. Andreas' claim was based solely upon hearsay.

Hearsay is inadmissible over proper objection. This type of hearsay would have been objectionable. To institute an action against the estate of Mr. Crossley would have been an unnecessary expenditure of funds, not only for Mr. Crossley's estate but for Mr. Andreas' estate.

This ignores totally, however, the fact that for years prior to the transfer from Mrs. Andreas to Mr. Crossley, that Mr. Crossley had been financially supporting the family of Mrs. Andreas. The reason for this is obvious. The Bureau of Indian Affairs had not developed Indian land or allowed the Indians to develop their land to such an extent that they could support themselves. Now, I had a box in my office years ago containing all the canceled checks and vouchers of Crossley after the death of the grandmother, but I threw them away.

The task force concludes that Therieau, Hollowell, and Spiegelman all received fees in connection with the transaction involved. Certainly, we received fees. We worked and were entitled to these fees. Apparently, the inference is that there was some sort of conflict of interest here because Mr. Spiegelman was an appraiser involved in both estates.

We have an interesting situation right now in existence with the express approval and consent of the Bureau of Indian Affairs wherein two daughters, represented by the same conservator, and their mother are exchanging land in order to enable the mother to have a site large enough for the establishment of a post office on the land of the mother. All three of these parcels of property were appraised by the same appraiser, the Bureau of Indian Affairs.

Evidently the Bureau, because its head has been in the sand for so many years concerning the problems of the local Indians, does not have a conflict of interest, whereas those persons who have in the past exhibited an interest in their particular wards do.

My next exhibit, which Mr. Sigler has, is D, which sets out the Spiegelman matters in detail and which also shows in detail the post office transaction. Here again, the material is voluminous and I am sure Mr. Sigler can advise you of the contents.

In my lengthy and heavily documented report on behalf of the conservators and guardians, which was earlier forwarded to you, and which will be my last exhibit today, exhibit H, I go into the incident with Broussard, the chief auditor, in great detail. Here again, I am offering the exhibit and I feel that the contents therein can be briefly summarized for you by your counsel.

Besides informing me as to the cash accrual method of bookkeeping adopted by the task force, which area Mr. Cleary will cover, Broussard also told me that the auditors were wasting a tremendous amount of time preparing exhibits which were charts and tables concerning the finances of our Indian clients. Preparing such charts and tables is a specialty of Mr. Cox, which I discovered when he was first here in 1965 and 1966.

Mr. Cox wanted the auditors to prepare these tables and charts, thus giving them dignity. Broussard explained to me that the auditors' way of disclaiming liability for these wastes of time, and their way of further diplomatically stating that these charts and tables were of no value or significance was to place a note on them as follows, "statistical information presented in this exhibit was gathered, arranged, and presented as directed by the chairman, Palm Springs Task Force."

Please note as example, the exhibits contained in exhibits 19 and 23 of the final task force report and you will find this language.

One other accusation made against both myself and Judge Therieau should be mentioned regarding fees in some illegal manner. The accusation is based upon one transaction and that is in the matter of the Sunquitz lease and the minute order contained in the report as exhibit 31.

A simple reading of the minute order will indicate that at worst, it is ambiguous. The attorney and the conservator interpreted the minute order in a fashion which I believe is reasonable, to mean that the conservator should pay his own attorney that commission. Thus, after the award to Judge Therieau, who was the conservator, he, in turn, paid me, his attorney, for the legal services rendered to him in connection with that lease.

As a matter of fact, this interpretation was discussed subsequently with Mr. Robert L. Cox, and in the estate of Winifred Patencio Preckwinkle, Indio No. 687, the identical situation presented itself. Believing the just referenced minute order to be some new probate policy of the superior court, the conservator in the estate of Preckwinkle, filed a petition for instructions requesting an award of one fee or commission to him, alleging that he, in turn, would pay the attorney, myself. Following the filing of this petition, the conservator and I discussed the matter with Mr. Robert L. Cox, the author of the task force report, and in that discussion, we all agreed that the order made in the estates of Mr. and Mrs. Patencio was ambiguous; that it was intended that the conservator pay his attorney from his commission; that it would be better practice for the court to award a fee to the conservator for his services and a fee to the attorney for his services. In discussing the matter with Mr. Cox, the conservator, Mr. Cox and I agreed on fees for the conservator and myself in such a manner that I received the exact same fee in the Preckwinkle estate as I had already received in the estates of Mr. and Mrs. Patencio. The work was fairly identical, the leases were identical. It was actually the same leasee, and had the same minimum rent.

My next exhibit is E, which Mr. Sigler has. It is the Preckwinkle petition and the order, which completely confirms Judge Therieau's and my position in the matter of the Patencio estates. The petition clearly shows that we interpreted the minute order, the prior minute order as a new court policy.

The matter of the fees for the conservator and myself in the Preckwinkle matter were negotiated with Mr. Cox. After the negotiated fees and commissions in the Preckwinkle estate, Judge Therieau later reduced his commission in the Patencio estate, since both of these leases were identical. Therieau and I, in the Patencio estates, agreed that he would only pay me 40 percent of his commission, as his commission in those estates included not only a commission for obtaining the Sunquitz lease, but also other extraordinary services performed by Judge Therieau. Mr. Cox was completely informed as to all these matters. The conclusive proof of this is the fact that when you take 40 percent of the Sunquitz lease commission eventually paid to Therieau, you will find that this is attorneys' fees awarded to me, the exact sum negotiated with Mr. Cox and ordered paid to me as attorney in the other lease in the Preckwinkle estate. This is far too much,

gentlemen, to be a coincidence. With the full knowledge of all the facts, the task force has deliberately misrepresented to the world that I have participated in some sort of illegal fee-splitting.

I have confined my remarks generally to the false accusations made against me and some of my clients. The true picture of the conservatorship program insofar as it relates to the cost to the Indians will be discussed by Mr. Cleary.

I had wanted to have present here today, a certified public accountant who could advise this committee on the inaccuracies of the audit reports which were prepared under direction of the task force. However, early in April, Mr. Cox advised me that the reports would not be available for examination and this position was not reversed until last Friday when two letters were sent by Cox to myself advising that three of my audit reports were then available. The letter of authorization did not even extend to the conservators' attorney, therefore, it was felt that the Bureau would not permit an auditor to examine the reports, nor did time permit, since we had only a few working days to get ready for today's hearing.

This committee might be interested in the fact that despite the accusations made in May, reiterated in September in the Cox interim report, and again in March by the final task force report, and constantly throughout the past year by the newspaper of alleged improprieties, illegal activities, and gouging done by myself, the majority of my Indian clients have awaited until today's hearing to ascertain the full story before making up their minds, and this despite the fact that I have been devoting so much time to this matter, working in preparation for today, that I haven't had a chance to go into those matters with them in detail. Gentlemen, Indians make very loyal friends and I am sure you Congressmen know that.

My next exhibit is "F," which Mr. Sigler has, and it is a declaration by Attorney Mahaney in regards to the Palm Canyon Country Club lease transaction, wherein myself and many other attorneys have been charged with possible conflict of interest. Although Mr. Cleary is covering this phase of the task force report, this declaration is offered into evidence to show why I received more fees than some of the other attorneys. The lessee, Palm Canyon Country Club, the Bureau of Indian Affairs, and the landlords were all equally anxious to process the amendment to the lease. Mr. Mahaney, who represented the lessee, requested help in expediting the matter and it was given to him by my office, and the lessee paid for these services. The task force made no effort to follow up on their exhibit in this regard or they would have found out that some of the money I received was for the use of my office's Xerox machine by Mr. Mahaney. In addition to the sums paid to me for helping Mr. Mahaney, he paid, generously paid my secretary \$50 for working overtime and helping his secretary in preparing papers.

My next exhibit is "G," which are copies of two letters for the first time informing me that I could examine the audit reports of three estates in which I am the fiduciary. This came far too late for me to take effective action. However, through my efforts during the past year, I was able to relate sufficient information to Mr. Cleary wherein he could effectively explain to you, wherein the audit reports are of no value or use whatsoever.

My next exhibit is "H," which is the lengthy—and hastily-drawn reply to the task force. I have already forwarded it to Mr. Tunney's office after I received the final task force report.

Mr. Cleary will cover schedule 5 of the task force report, but since I am a chief target in this matter, please allow me to comment briefly in regard to that exhibit.

Only two of the seven estates in which I am a fiduciary are listed in schedule 5 and in these estates, schedule 5 sets out that records were not adequate, and that supporting documentation was missing. These are the only two adverse comments in regards to the estates of Joe and Frances Patencio. Yet, the audit reports do not cover the period of my stewardship. The fact is that in auditing three of my estates, wherein I had filed accountings, therefore, the task force had a comparison for it, but the task force could find nothing and since they had nothing derogatory to present, they omitted my three estates which had been audited and which gave me a clean bill of health.

Since they found that I had all of my canceled checks and vouchers, and had actually kept journals on all of my estates, and everything was in proper order, they abandoned the witch hunt in regards to me and they have not audited the rest of my estates. There are four more. Many of my conservators, for whom I am the attorney, find themselves listed in schedule 5, by inference, although there were no adverse findings in their audits. The task force deliberately chose the audit reports of those estates wherein there were one or more deceased fiduciaries, or fiduciaries who had already resigned, and for whom there were little or no records available.

On October 25, 1967, I mailed a lengthy and heavily documented letter to the Secretary of the Interior covering many of the areas covered by myself and Mr. Cleary. I sent this letter through Mr. Tunney's office and requested that he cause a copy to be made and send the same on to your committee. At that time, the Interior Department was put on full notice of how corruptly the so-called investigation was being conducted. On February 7, 1968, I directed another letter through Mr. Tunney's office to the Secretary of the Interior, bringing the Interior Department up to date on more recent findings by myself in regards to this little witch hunt. The letters were heated, angry, and indignant, and I admit it. However, the factual content was correct and the Interior Department was clearly informed as to the gross irregularities which were occurring in regards to the so-called investigation. Since the Interior Department has been fully informed twice by myself as to what was occurring, I feel their actions to date are completely inexcusable.

Mr. Cleary will make reference to the successful leases I have drawn, and also the unsuccessful leases. I have nearly \$8 million in leases drawn by me which is still in effect and working, and the leases which have been terminated and which were drawn by me, come up to almost \$12 million. Through no fault of mine did they go under, so that added to that is a vast list of leases I have drawn, leases which would result in income to my Indian clients of \$20 million tax-free and I'm proud of it.

I'm proud of the fact that the conservators and the guardians were able to conduct in 1 month a complete survey of all the court files

in Indio which the task force has been working on for a year and only done half of them.

One quite logical question should be answered for the benefit of all concerned, but primarily for the benefit of my Indian clients who are here today. Why have I been singled out by the task force? I think the reason is quite simple. When Mr. Cox was here in 1965 and 1966, I discovered what was happening and what the purpose of his investigation was. I was thoroughly familiar with the list of grievances sent to Washington. Every person who stood up to Mr. Cox during his first visit ended up being a major target in this past year's so-called investigation. The parties who stood up to Mr. Cox, and you have the list, were Judge McCabe, Judge Brown, Judge Therieau, Stanley Spiegelman, the Bank of America, and myself. As I resisted these efforts during the past year, I became more and more the target.

My exhibit "H," my lengthy earlier report clearly shows that I have been working for a solid year in pecking away at these investigators finding out what was wrong. Mr. Cleary will present to you what I think is an excellent critique of their report and I think he pretty well destroys it.

One last point is, Mr. Cleary makes certain alternative recommendations.

As a conservator and guardian myself, I am not recommending automatic termination of the trust status when an Indian client becomes emancipated by marriage or reaches the age of 21. The effect of the trust status over and over again has been declared by the U.S. Supreme Court to be that of wardship, the Indians being incompetent and thus protected by the United States of America. This is the legal effect of the trust status.

In January of this year the task force directed some form letters to certain of my Indian clients stating that the conservatee involved was sufficiently competent to handle his or her own affairs. This keys in with what Mr. Cleary will state, wherein the task force on page 5 states that a person who might reasonably be expected to do a creditable job of handling the income is not necessary capable of managing the corpus of his estate.

The effect of one of Mr. Cleary's recommended alternatives is to give the adult Indian a chance to choose or determine his future. If an adult Indian feels competent to handle his or her own affairs and the Bureau of Indian Affairs believes him competent, and the court should so determine that this is correct, then the Indian should be freed of the trust and be allowed all of the privileges of competency.

The position of the Bureau is deliberately intended to deceive the Indian. They are saying that although you are incompetent and we must preserve the trust status and keep you a ward of the United States, you do not need a conservator, for you're competent. The great white father speaks with forked tongue. What they really mean is that we wish to perpetuate the bureaucracy and keep the Indians dependent and subserviant to the Bureau of Indian Affairs.

I am the conservator for a number of adult Indians. If they feel that they wish to remain as wards of the Government, Mr. Cleary's alternative proposal is open to them. They should be afforded the right to demand that the Bureau of Indian Affairs determine whether they are competent or incompetent. My Indian conservatees should be given

the choice of whether they wish to continue the status of wards of the United States. If they should so choose, then Mr. Cleary's alternative proposal would afford the later heirs and descendants of these Indian clients the right to make a choice for themselves when they come of age.

I thank you for your patience and if you have any questions, I will be glad to answer them to the best of my ability.

Mr. EDMONDSON. Thank you. I am quite sure that you have correctly brought out a situation here, and because of the volume of the material and the technical questions presented, it may not be possible to question you properly and adequately on a number of these items, without attempting to read them first. They are very voluminous and a lot of work and I can certainly assure you that every matter that you have covered is going to be followed through and that the Bureau of Indian Affairs is going to be asked to comment on each and every charge that you have made with regard to them.

May I ask one question of you. I'm not familiar with this phrase that appears at the end of your statement.

Executed at Palm Springs, California, this 29th day of May, 1968.

I declare under penalty of perjury that the foregoing is true and correct.

Is this a statement that corresponds to a sworn statement?

Mr. HOLLOWELL. Yes, sir. Under our law some people have a tendency not to want to take the Lord's name in that sort of this, so this is called a statement under due penalty of perjury which has the same effect as an affidavit.

Mr. EDMONDSON. You did not continue to read that in your presentation here.

Mr. HOLLOWELL. I'm sorry.

Mr. EDMONDSON. I wonder if that was an oversight on your part?

Mr. HOLLOWELL. It was.

Mr. EDMONDSON. I think it would be timely, if you read that, sir.

Mr. HOLLOWELL. I'd be more than happy. "Executed at Palm Springs, Calif., this 29th day of May 1968. I declare under penalty of perjury that the foregoing is true and correct." And, I have signed my name there.

Mr. EDMONDSON. Yes, sir. So, for purposes of the State of California this, then, is equivalent to a statement under oath before a notary public and is subject to the penalties provided in the State of California for perjury?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. Thank you very much, and I also want to compliment you for submitting it in that form, and I think it is to your credit that you are willing to stand on it, and to have it subjected to the test.

Mr. HOLLOWELL. I will stand on it, and I have a selfish motive; my reputation is at stake. Do any of you other gentlemen have questions?

Mr. EDMONDSON. I have several more questions. I'm not quite through.

Mr. HOLLOWELL. Fine.

Mr. EDMONDSON. You have used very strong language as to what you describe as the corrupt and deliberately deceptive work in the report of the task force, and you have attempted, in supplying



motivation for this, to say that it is because some people did not agree with Mr. Cox when he began his investigation and—

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. And, that some people were singled out as targets. Do you really believe that this would be motivation for a task force consisting of two public officers to make a finding on this point that does cover the the money points that are covered in this task force report?

Mr. HOLLOWELL. I do, sir; I'm familiar with the original list of grievances and I can go down that list and cover it point by point, and only in a few places I think they were legitimate grievances. I think that matter was handled badly. Instead of going over that original list of grievances and find out where the Indians were right and where they were wrong, an investigator was sent out to start using his pencil and get the facts. Now, I've seen this 1965 report and it contains the same things that we have here. He talked of nothing but income, not the total value of the estate. Bob Cox is a good attorney.

Mr. EDMONDSON. You keep referring to Mr. Cox. Was this a one-man task force in your understanding, or was it not the work of several officials and employees of the U.S. Government?

Mr. HOLLOWELL. My talks uncovered this. Mr. Cox is the chairman, Mr. Berkson, the other member, and Broussard stated specifically that because of the problems that had come up, the auditors had specifically been taken off, so the task force consisted of two men, Cox and Berkson.

Mr. EDMONDSON. Do you think that Mr. Berkson is subject to the same charge of corruption and deception as a participant in this report? Do you think that Mr. Cox is the man who is principally at fault?

Mr. HOLLOWELL. Well, knowing both men, I think Berkson was just following orders.

Mr. EDMONDSON. You stated at the start of your testimony that from the very beginning of the investigation in 1967, from the public announcements made by the Secretary of Interior, that it was obvious the investigation would not be an impartial one but would attempt in some ways to distort the facts and mislead Congress. Do you have the text of any of those public announcements that evidence that intent on the part of the Secretary of the Interior?

Mr. HOLLOWELL. Of course, that would be my only offense, sir. I have a folder, a newspaper file, and it's about that thick, but over and over again, the Secretary cross-quoting the information given to him regarding the percentage of income which I know was not a fair statement.

Mr. EDMONDSON. I want to say that I agree with one of your earlier conclusions very, very definitely, among others, when you speak about the lack of the Bureau of Indian Affairs initiative on the subject of leasing programs for Indian lands. I just thought your statement falls a little bit short of the full blame in the picture, because I think the Congress of the United States has to share with the Bureau of Indian Affairs a great deal of responsibility for that, for their failure to recognize this problem in the leasing regulations that we have set as a guide. We, in the Congress, cannot escape our farsighted responsibility for waiting until the late 1950's to get adequate long-term leasing authority into the law. I think the Bureau has a responsibility, and it is a very important one, but I think we, in the

Congress, share that responsibility, and I think it's only fair to acknowledge it.

Mr. HOLLOWELL. I think that's very fair. I think you're going to find that Indians are extremely individualistic and you are probably going to have to put the legislation that will not please everyone. Indians are no different than we are.

Mr. EDMONDSON. Now, Mr. Hollowell, I have read your statement and listened to it, and I have not found in it, or heard—perhaps I missed it—any response to one of the charges that appears in the task force report that all of us on this committee have discussed and consider very significant. I want to read it to you, and ask you to comment on it. It appears on page 28 of the report.

As stated above, Hollowell prepared nine of the 10 wills in which Judge McCabe is named executor and some of the Indians indicated that Hollowell did not make clear to them the import of the executor clauses. Hollowell kept McCabe advised of the preparation of wills in which McCabe was named executor.

Now, is this something that you would like to comment on at this time?

Mr. HOLLOWELL. I'd love to. I didn't want to go into it in detail. No. 1, I came into the interim picture in October of 1961, and right about that time, Judge McCabe had a large conference in Indio in his new courtroom to which the attorneys were not invited, where he covered 17 or 18 points in regard to the Indians. One of these was making wills. I didn't know anything about the procedure on Indian wills, so I immediately got hold of Ray Jackson, our then director, and Ray forwarded on to me a letter of instructions on how the Bureau would like an Indian will. I, therefore, prepared a large number of wills for some of my Indian clients, all of these wills being submitted to the Phoenix office of the Bureau of Indian Affairs where they were to be approved as to form by the Bureau. If the will—I didn't always make it the first time. Sometimes they'd find something wrong and send it back, but after the will was approved, I was then, according to the Bureau policy, to mail a copy to the local office of the Bureau and one to Sacramento, which I religiously did.

The wills that Judge McCabe figured in all popped up in about 1962. At that time—we've been wrestling with the Bureau since 1962—in talking to the individual Indians. I find them very much like other people, and when we got to the executor, they say, "What's that?" and I tried my best to explain that "He's the fellow who has to gather up the assets and administer the estate," and I explain specifically in every case, as I do in my regular practice, that the executor is paid and he's paid statutory fees which were based on a percentage in California. I would ask, as I do with all my other clients, "Who do you want for executor?" and most of my people—well, practically all, I would say, said, "I don't know," and this is not just an Indian; it's quite common. I suggested Judge McCabe because he was an excellent administrator, one whom I felt knew more about the files and regulations and the complexities and the whole miserable overlapping field than anyone else, and at that time, Judge McCabe was loved and liked and respected by our local Indians.

Now, this didn't last forever. In a subsequent year, a little book called "The Golden Checkerboard" came out and this is about the

point where Judge McCabe fell in great disrepute with the Indians; the Indians didn't like the book.

But, I swear to God, gentlemen, I explained that the executor got paid and you could choose anyone you want, and in that early group, by the way, I found one where Judge McCabe wasn't mentioned, but the Bank of America is, because in that particular case, my Indian clients wanted the Bank of America, and that was the end of the matter.

Mr. EDMONDSON. I assume, then, that this statement that nine of the 10 wills in which Judge McCabe was named executor were prepared by you, is an accurate one in the task force report?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. And, that you did keep Judge McCabe advised of the preparation of wills in which you named him executor?

Mr. HOLLOWELL. Not in every case. There, again, I supplied the cover letter in my first letter to Udall, one of my angry letters, and in that letter, I gave him a copy of every letter of transmittal, even including Phoenix back to me. All these letters of transmittal, also, my secretary did send a copy to Judge McCabe, but we do this with the Bank of America, and with other corporate, except in a few cases, and in those that didn't, I don't know what state of mind my secretary was in on that particular day.

Mr. EDMONDSON. And, the fact that you were having dealings with Judge McCabe then, in those judicial capacities, did not arouse any problems in your own mind of recommending him for executorships in connection with these estates?

Mr. HOLLOWELL. It didn't to me, because, and I'll be quite frank with you, I didn't get along with the man. I respected him, I really did, but I didn't always go along with what he said or what he did, and there's been many an unhappy time in court when I've asked for a fee and he's chopped it in half and I didn't like it, but—

Mr. EDMONDSON. Did you entertain the feeling, which would be human, that in having him named executor in a number of wills that it might improve his attitude toward you in his decisions with regard to you and your fees in court?

Mr. HOLLOWELL. I can honestly say I didn't, and it sure didn't improve my fees, because I know of a number of times after that where I had to have a matter of making a request and Judge McCabe made them substantially lower. He being the judge, I accepted his decision. I respected the man, but I didn't always get along with him.

Mr. EDMONDSON. Going on to the next point on the same page of the same task force report, there are several paragraphs dealing with radio station KDES in Palm Springs. Now, if you have the material before you, you can read it yourself and reacquaint yourself with the charge that is made. I didn't note in your testimony any specific reference to this charge either, and there is another point that I had drawn to my attention in reading through this material. It says, "Although Hollowell did not represent KDES, its representatives stated on interview that he had billed it for \$3,500 for his services." Is this an accurate statement?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. It says, "For approximately the same service

rendered to the third Indian estate, the other attorney billed KDES \$250." You probably have no way of knowing about that?

Mr. HOLLOWELL. I do; yes, sir. I know the lawyer.

Mr. EDMONDSON. Is this an accurate statement?

Mr. HOLLOWELL. No, sir.

Mr. EDMONDSON. It is not an accurate statement?

Mr. HOLLOWELL. No, sir.

Mr. EDMONDSON. He billed them for more than the \$250?

Mr. HOLLOWELL. He did not perform the same services.

Mr. EDMONDSON. It goes on and says, "KDES succeeded in getting Hollowell to reduce his fee to \$500 after it was pointed out to him that he was charging one of his Indian estates for the same service." Now, let's break that down. Did they succeed in getting you to reduce your fee from this \$3,500 to \$500?

Mr. HOLLOWELL. They sure did.

Mr. EDMONDSON. Did they make the argument to you that it should be reduced because you were charging your Indian client for the service?

Mr. HOLLOWELL. That was not the approach, and I hate to say it, but lawyers become rough when they are representing their clients, as you know. The approach to me was, "Gee, Jim, I'm sorry. We understand you are under investigation. I hate to come to you at a time like this, but"—and I'm reading the handwriting between the lines and catching the inference there that "you can't afford a big legal fight at the present time," and I capitulated.

Mr. EDMONDSON. You're saying that KDES in effect, put you under pressure to reduce your fee because an investigation was in practice?

Mr. HOLLOWELL. Yes; and that's what they—

Mr. EDMONDSON. Is that it?

Mr. HOLLOWELL. Yes, sir; and this has happened to me in other instances since this has been going on.

Mr. EDMONDSON. Let's go then to the last part of that statement, that you were charging one of your Indian estates for the same services. Is this an accurate statement?

Mr. HOLLOWELL. No, sir. I performed a multitude of miscellaneous services helping KDES get their lease.

Mr. EDMONDSON. Did you make any charge to the Indian estate, to any Indian estate for the work on the KDES matter?

Mr. HOLLOWELL. Yes.

Mr. EDMONDSON. The right-of-way?

Mr. HOLLOWELL. Yes. We had other Indian estates that were involved.

Mr. EDMONDSON. So, you did charge an Indian estate for the same work that you charged KDES for?

Mr. HOLLOWELL. No, sir.

Mr. EDMONDSON. You didn't understand my question then. Did you make any charge of an Indian estate listing the KDES work as a basis for a charge to that estate?

Mr. HOLLOWELL. No, sir. I was paid for some right-of-way through some other Indian estates, but in regards to KDES there were a multitude of incidental services that I performed in regards to that. There were two other Indian estates that KDES had to go over, or to reach Vista Chino, and there were charges in those other estates.

Mr. EDMONDSON. Let me direct your attention at this time to a document which I understand you filed, a pleading, July 6, 1966, in the matter of the conservatorship of the estate of Anthony Joseph Andreas, Jr., in which attorney's fees are listed and a charge is made over the signature of James Hollowell for an attorney fee in the amount of \$4,000. This item appears:

Said lessee, K.D.E.S., Inc., later found it necessary to require a non-exclusive easement for the purpose of ingress and egress to the K.D.E.S., Inc., lease premises. Attorney prepared Petition, Order and attended hearing concerning same.

Mr. HOLLOWELL. I know what's bothering you, sir. I had trouble with Mr. Cleary on this. Mr. Andreas owned a large piece of property. KDES only leased a small portion of it. Prior to the lease agreement that the landlord had with KDES, Andreas' estate would bear the cost of any rights-of-way from the tower site on the Andreas property through the remaining Andreas property that was not leased. Then, after we got up to the dividing line on his unleased parcel, we had two other Indian estates to go through to reach Vista Chino Street, so it is slightly confusing. A small portion of this big area was leased, I'd say one this large, and we had to give rights-of-way to KDES through the unleased portion and it was my burden to pay them from the estate.

Mr. EDMONDSON. Did you perform services for the Andreas estate in connection with the KDES right-of-way?

Mr. HOLLOWELL. Yes, sir. We had a —

Mr. EDMONDSON. And, you charged the Anthony Joseph Andreas, Jr., estate for this service?

Mr. HOLLOWELL. Through his own property.

Mr. EDMONDSON. And, is that a different service than the service for which you billed KDES for \$3,500 and later reduced your fee to \$500?

Mr. HOLLOWELL. Yes; certainly, definitely.

Mr. EDMONDSON. Would you tell us what, although you were not the attorney for KDES, what you billed them \$3,500 for doing?

Mr. HOLLOWELL. It would be hard without my files, but briefly this, the attorneys were not familiar with the Bureau procedure. They had me sort of running errands, they needed rights-of-way through these other estates. I helped them with those. The thing took about a year. I have a tremendous—certainly a thick—an inch-thick file of all the correspondence. KDES attorneys called me on the phone, saying "Jim, do this, do that," because from the very outset, KDES said "Take care of everything, Jim. This is the only tower site we can use and it's available and we'll take care of any extra costs."

Mr. EDMONDSON. So, this is not an accurate statement that you were not the attorney for KDES. You were, in effect, acting as attorney for KDES?

Mr. HOLLOWELL. Not officially, no. I was told by my conservator to do whatever was necessary to get the lease. KDES, through their attorneys asked me to help.

Mr. EDMONDSON. Who were you working for, the Indian estates or KDES?

Mr. HOLLOWELL. For the Indian estate. We wanted that lease.

Mr. EDMONDSON. Then, why did you bill KDES?

Mr. HOLLOWELL. Because they said to. They would pay for these extra services.

Mr. EDMONDSON. And, you did not see any problems in accepting a fee from KDES when you attempted to get the best possible deal for your Indian clients in connection with what was paid for the right-of-way?

Mr. HOLLOWELL. Not in this case because both parties knew it, and it was a good lease, and I drew the lease. I will agree with Mr. Schlesinger where he said in regard to duplication, what he said. The redtape involved in getting an Indian lease through is just monstrous, and I went through that redtape whereas their attorneys were not familiar with it.

Mr. EDMONDSON. Who do you think your responsibility was to in this situation, the Indian estates or KDES?

Mr. HOLLOWELL. Definitely to the Indian estates. Now, I am in the same situation on those rights-of-way being paid by the gas company and the electric company.

Mr. EDMONDSON. Are you telling me that this is a general practice in this area, for lawyers to accept fees from both sides in matters that involve two parties?

Mr. HOLLOWELL. It's not always a general practice, but I certainly have run into it. I run into it in a divorce situation almost daily, and many times I have two parties in my office and only one party pays for it. The way I feel, the minute I got out of law school and the minute I went into practice of law, I faced a conflict of interest every day in the year, and I think you have to wrestle with each one as it comes up and decide whether there is a conflict, and I might go along with what Cox says in this instance, a possible conflict. What we are saying is, there was none.

Mr. EDMONDSON. Let me ask you—

Mr. HOLLOWELL. When I'm seeking a husband to pay attorney's fees, it's anything but a happy situation, and I have to do this almost daily. I shall furnish a supplemental statement giving the details about the KDES lease.

(The supplemental statement and information for the record follows:)

#### SUPPLEMENTAL STATEMENT OF JAMES HOLLOWELL

In the third and fourth paragraphs on page 28 of the Final Task Force Report, there are certain statements and allegations in regards to radio station K.D.E.S. and myself. In a telephone conversation with Mr. Lewis Sigler prior to the May 31 hearing in Palm Springs, attorney Henry Cleary was cautioned to not go into too great a detail in his and my statements at the May 31, 1968 hearing. Mr. Cleary and I interpreted this as a reasonable requirement to keep our testimony to the "meat of the matter" and leave our detail. Inasmuch as there were no exhibits in regards to the K.D.E.S. matters on page 28 of the Task Force Final Report, which indicated any misconduct whatsoever on my part, neither Mr. Cleary or myself prepared statements or were prepared to go into this matter. Page 28, as far as we were concerned, contained nothing but conclusions without evidentiary basis.

I am more than happy and pleased to submit the following detailed explanation; this opportunity having been given to me by the Chairman of the Palm Springs Committee on May 31, 1968, after the Committee went into this subject in detail, and I was not prepared with exhibits or a statement.

Attached hereto and incorporated herein as Exhibit "A", is a section map indicating three parcels of property owned by three different Indians: 33E . . . Guardian is Security First National Bank, attorney is Saul Ruskin; 32E . . .

Conservator was Walter Melrose, attorney was James Hollowell; 48E . . . Conservator is Stanley T. Spiegelman, attorney is James Hollowell. The K.D.E.S. lease involved only a small portion of the Andreas property, which has been outlined in the northeast corner of 48E.

Attached hereto and incorporated herein is Exhibit "B", which is the pertinent pages of the K.D.E.S. lease. Please note that article No. 34 is Easements and Rights of Way. The pertinent language there is "lessor hereby promises and agrees to grant to lessee whatever rights of way are reasonably required by lessee over lessor's real property."

Negotiations in regards to the K.D.E.S. lease were commenced by the conservator, Mr. Spiegelman, approximately in the summer of 1963. My first proposed draft of the lease was submitted to the Bureau of Indian Affairs on July 28, 1964. As you can see from Exhibit "B", it was finally approved on August 30, 1965. When negotiations commenced in 1963, the representatives of K.D.E.S., being unfamiliar with Indian matters, and realizing there were easement problems, stated to the conservator and myself that they would pay all legal expenses, except for the preparation of the lease, including rights of way over other Indian lands, and other help and assistance needed by them from attorney Hollowell.

Attached hereto and incorporated herein is Exhibit "C", which is the Fifth and Final Account Current of Walter Melrose in the estate of Eugene Segundo, which is parcel 32E, and for which I was the attorney of record. Mr. Melrose consented to the rights of way, which is shown by a red line coming from K.D.E.S. through the remaining portion of Andreas, through Segundo's property, and then through 33E down to the street known as Vista Chino. Commencing with item No. 6 on page 3 of this accounting for Segundo, it is set out clearly and plainly that my services in regards to the K.D.E.S. rights of way, in which there were three, were not being charged to Mr. Segundo, but were being charged to K.D.E.S. I point out that this accounting was not included as an exhibit in the Task Force Final Report. This was a deliberate omission.

In regards to my representation of the conservator for parcel 32E, as attorney, it is certainly understandable that the conservator, Mr. Melrose, would grant the easements over this property to aid the Andreas Indian property to the north, and it is further understandable that Mr. Melrose, after approving the documents, would require that this would be at no cost to the Indian estate, since the right of way was of no value to the 32E estate. This was Mr. Melrose's understanding and this was clearly set forth in Exhibit "C".

Attached hereto and incorporated herein is Exhibit "D", which is a small portion of pertinent correspondence in my K.D.E.S. lease file. I am not sending in the whole file, since it is so voluminous. Attorney Arnold's letter of January 16, 1964 and my letter to him of January 27, 1964, indicate some of the problems that presented themselves. My letter of May 6, 1965 to K.D.E.S. and Thurman Arnold, also signed by Stanley T. Spiegelman, spells out that whatever easements are required are to be at the expense of K.D.E.S.

The next copy of my letter of May 17, 1965, indicates one of the problems. K.D.E.S. had switched attorneys. The last paragraph in my letter indicates clearly that the K.D.E.S. attorneys would prepare the easement agreements, and that I was representing the Indian lessor.

My next letter of January 10, 1966, to K.D.E.S. clearly spells out my understanding that K.D.E.S. was to pay me for certain miscellaneous matters. The next letter of March 4, 1966, further illustrates how these problems arise. K.D.E.S. had again switched attorneys. This letter then brought up a newer interpretation, in regards as to who was to pay for what. I have underlined the pertinent portion.

The next letter of April 6, 1966 from the K.D.E.S. attorneys further indicates that they were having me take care of miscellaneous loose-end matters for everyone concerned. My next letter of April 7, 1966 shows me sending a copy of the easement agreement to my client, Walter Melrose, on behalf of the 32E parcel and my next letter of May 2, 1966 shows me sending it on to the Bureau.

The next letter of May 16, 1966 from the attorneys for K.D.E.S. indicates that problems had arisen, resulting in more legal work, and further indicates that they were depending on me to run liaison and help them out. My next letter of May 5, 1966 to City National Bank, the conservator of the 33E portion, further illustrates my understanding to help in all respects wherever possible, to expedite the matter. Please note that I was not the attorney on the 33E parcel.

My next letter of June 3, 1966 to the attorneys for K.D.E.S. is a transmittal letter wherein I sent my final billing. The next letter of December 9, 1966 from the attorneys for K.D.E.S. and my letter of December 28, 1966 to said attorneys, are supplied only for the sake of continuity.

The next letter of December 30, 1966 from the attorneys for K.D.E.S. clearly indicates that there was definitely then a disagreement or misunderstanding as to what K.D.E.S. was to pay for.

My next letter of March 13, 1967 to the attorneys for K.D.E.S. spells out in detail my contentions in regards to this matter. My letter of April 10, 1967 shows that I was still pursuing my original understanding of who was to pay for what fees. Please note that my last letter of April 10, 1967, which is the last correspondence in regards to fees, was just one month prior to the investigation instituted by the Secretary of Interior during the middle of May, 1967.

I can certainly understand why the attorney on the 33E parcel only charged \$250.00. As can be indicated from the correspondence, he was supplied with my petitions and documentation and was able to spend a minimum of time, and in essence was able to copy my work since his estate and that of 32E involved only different legal descriptions and the name of a different Indian owner.

There is no further correspondence in regards to these matters. During the first part of June, 1967, one of the attorneys for K.D.E.S. visited my office. This was approximately two weeks after the public announcement by the Secretary of the Interior in regards to the accusations against the guardianship/conservatorship program, and the full-scale investigation. Please refer to the publicity file for that several weeks, and you will be able to see the tremendous amount of publicity and notoriety given to this matter. When the K.D.E.S. attorney came to my office, he quite frankly stated to me that in view of what was happening, I could not afford a lawsuit with them, and that although he did not like having to approach me under the circumstances, it was his duty to have the matter resolved. The attorney then directed me to the language contained in the K.D.E.S. lease under "Easements and Rights of Way", which I have already hereinabove quoted, and stated that it was their contention that in regards to all of my work in regards to rights of way over the Andreas property, 48E, that this cost must be borne by Andreas. I pointed out that the provision contained in the lease did not spell out the matter of attorney's fees and incidental costs, but the attorney assured me that this was the stand that they were going to take even in view of the correspondence which is attached hereto as my exhibit. Reference was made several times by the attorney to the inadvisability of adverse publicity, which would result from a lawsuit in view of the Federal government's investigation. To put it simply, gentlemen, I got the message!!!

I then talked to the attorney about all the other miscellaneous services in expediting, even in the matter of the 33E property in which I was not the attorney, and I was again confronted with the same reply and insinuation.

The attorney did state, however, that K.D.E.S. would pay \$500.00 for the work done in the Eugene Segundo estate, 32E. In view of the earlier remarks made in reference to the Federal government's investigation, I again "got the message".

Again referring to page 28 of the Task Force Final Report, I do not see how the scrivener likens this \$500.00 to a similar \$500.00 charge in any other estate. I received no fees whatsoever from the Segundo estate in regards to 32E, and so stated in the petition. The only other estate involved was that of the landlord in the K.D.E.S. lease.

I should insert here that I received the \$500.00 from K.D.E.S. and deposited same on June 8, 1967.

I turn now to the Fourth accounting and the Supplemental Fourth Accounting and Order in the estate of Anthony Joseph Andreas, Jr., which is exhibit 26 in the Task Force Final Report, and which is referred to on page 28 of the Task Force Final Report. The last paragraph on said page 28 states a conclusion alone, without any basis in fact.

My Fourth Accounting in the Antony Joseph Andreas, Jr. estate had a cut-off date of March 31, 1966. Please note that it is dated June 30, 1966, and that the required copy was mailed on that date to the Bureau of Indian Affairs in Palm Springs. On both the correspondence side of my files and the legal document side, papers are filed on top on either side. In other words, in any file, the oldest filings are on the bottom, and the newer filings are on the top in reverse chronological order.

When I appeared on the Andreas accounting in April of 1966, the probate-judge pointed out that I had failed to list or itemize each of my legal services.



and attribute a dollar amount to each. I was required to file a supplement to conform to this requirement. While preparing the supplement, I then discovered that I had included various items of service which had occurred since March 31, 1966, and also realized that many of these were K.D.E.S. items. Therefore, in the supplement, these items were eliminated.

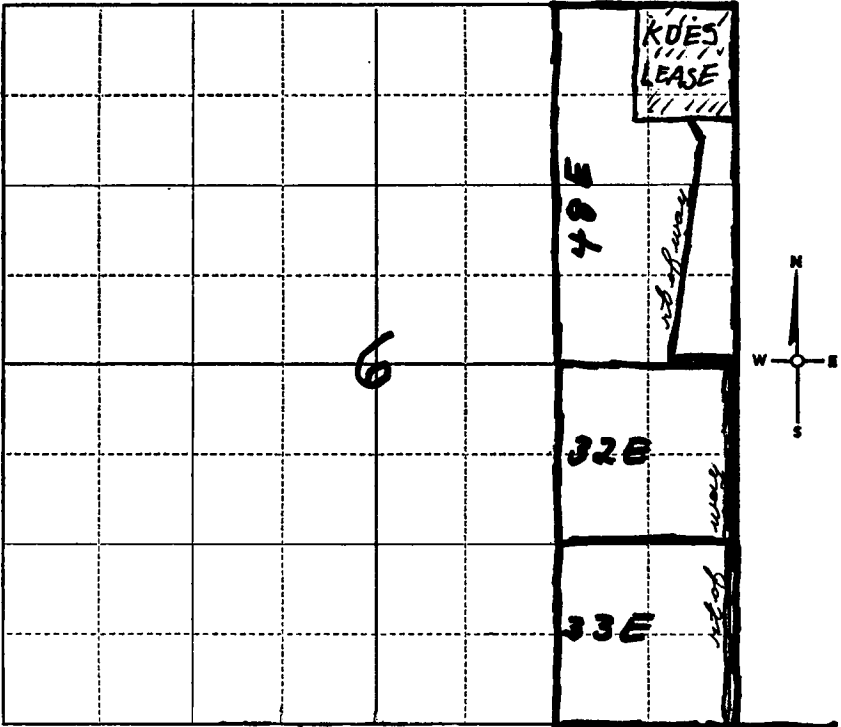
The crux of the matter is simple. These events occurred almost a year prior to the government investigation and also about a year prior to my final dispute with K.D.E.S. The writers of the Task Force Report attribute to me a clairvoyance in regards to things that happened a year later.

I declare under penalty of perjury that the foregoing is true and correct.  
 Executed this 9th day of July, 1968, at Palm Springs, California.

JAMES HOLLOWELL.

EXHIBIT A

SECTION 6, T4S, R5E, SBB&M



Scale: 1 inch=800 feet. VISTA CHINO STREET

EXHIBIT B

34. Easements and Rights of Way

It is understood by the parties hereto that a portion of the leased premises will be used for flood control purposes. Lessor hereby promises and agrees to grant to Lessee whatever rights of way are reasonably required by Lessee over Lessor's real property.

## EXHIBIT C

JAMES HOLLOWELL, ATTORNEY AT LAW, PALM SPRINGS, CALIF.,  
ATTORNEY FOR PETITIONER

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND  
FOR THE COUNTY OF RIVERSIDE

In the matter of the conservatorship of the estate of Eugene Segundo, Conservatee

INDIO NO. 688

FIFTH AND FINAL ACCOUNT CURRENT AND REPORT OF CONSERVATOR UP TO AND INCLUDING JUNE 30, 1966

Comes now, WALTER MELROSE, Conservator of the Estate of EUGENE SEGUNDO, Conservatee, and renders and files this his Fifth and Final Account Current and Report of Conservator, for the period of July 1, 1965, through June 30, 1966.

The Conservator of the Estate of EUGENE SEGUNDO was duly appointed on the 29th day of May, 1961, and duly qualified on the 1st day of June, 1961, and ever since then was the duly appointed, qualified and acting Conservator of the Estate of EUGENE SEGUNDO, until the appointment of his successor on July 1, 1966.

Ward is the beneficial owner of various parcels of real property in and about the Palm Springs area, title to which is held by the UNITED STATES OF AMERICA, as Trustee, said trust property can neither be attached, liened nor otherwise reached by any processes of any Court, and is administered by the DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS. Pursuant to Probate Policy of the above entitled Court, an inventory has never been filed in this Conservatorship concerning said trust lands, and said real property is not carried as an asset, although the Conservator of this Estate is charged with the duty to deal with said lands in place and in stand of said Ward, subject to the supervision of the DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS.

Attached hereto and incorporated herein is Exhibit "D", which lists the trust properties of EUGENE SEGUNDO. Those parcels of real property in this Estate which have been leased for long terms are so indicated.

SUMMARY OF ACCOUNT

*Fifth Annual Account*

Your petitioner is chargeable, and is entitled to the credits, respectively, as set forth in this Fifth Annual Account. The attached supporting Schedules marked "A", "B", "C", and "D" are hereby incorporated herein by reference.

CHARGES

Cash chargeable from last accounting period.....	\$6, 682. 16
Total miscellaneous property chargeable last accounting period.....	176, 485. 76
Receipts during this accounting period, per Schedule "A".....	20, 514. 42
Increase in Miscellaneous Assets.....	1, 433. 25
	<u>205, 115. 59</u>

Disbursements during this accounting period, per Schedule "B".....	20, 960. 52
Total Miscellaneous Assets chargeable, per Schedule "C".....	164, 326. 62
Cash chargeable and on hand.....	17, 077. 75
Decrease in Miscellaneous Assets.....	2, 750. 70

205, 115. 59

CONSERVATOR'S BOND: Conservator's bond was fixed and filed in the sum of \$150,000.00.

CONSERVATOR'S COMMISSION: Conservator feels a fair and reasonable commission for this final accounting period is \$2,400.00.

ATTORNEY'S FEES: Attorney performed the following services which he values as follows:

1. Prepared Ex-Parte Petition, Order and attended hearing concerning public utility right of way in Section 26 for Southern California Edison Co.....	150. 00
2. Prepared Petition, Order and attended hearing concerning telephone distribution line right of way in Section 6 to service K.D.E.S. Inc. transmitter tower site. No fees have been paid but K.D.E.S. Inc. has agreed to pay same.....	None
3. There was discovered that Conservator had only been appointed temporary Conservator, attorney prepared petition, order and gave the required notices and attended the hearing with Conservatee where Conservator was appointed regular conservator.....	200. 00
4. Prepared petition, Order and attended hearing concerning the fixing of various monthly allowances as a result of Conservatee and his family maintaining separate residences due to marital difficulties. Inasmuch as the separation of Conservatee from his family resulted in the payment of funds to other than conservatee, Conservator desired instructions from the Court.....	150. 00
5. The Court increased the bond of Conservator when he was appointed regular conservator. Attorney filed bond and transmitted the necessary papers to the bonding company.....	50. 00
6. In conjunction with the K.D.E.S. Inc. lease of neighboring Indian land, petition and order were prepared and attorney attended hearing concerning a non-exclusive easement allowing ingress and egress to the neighboring Indian land. This is to be paid by K.D.E.S. Inc.....	None
7. It was then necessary to prepare ex-parte petition, order and attend hearing wherein certain amendments and corrections were required in the hereinabove described non-exclusive easement. This is to be paid for by K.D.E.S. Inc.....	None
8. Several conferences were required when conservator decided to resign and conservatee decided on the successor conservator. Attorney expended five hours in conferences at a cost of \$40.00 per hour.....	200. 00
9. Attorney prepared resignation of conservator and petition for appointment of successor conservator, prepared and gave all notices, attended hearing and prepared Order appointing Conservator....	200. 00
10. Attorney prepared this Fifth Annual Account Current of Conservator, the Order Settling same and discharge of Conservator, will attend hearing concerning same, prepare and file receipts, final affidavit and final Order of Discharge.....	400. 00
<b>Total .....</b>	<b>1,350. 00</b>

WHEREFORE, Conservator prays that this Fifth Annual Account Current and Report be approved and settled, that Conservator be discharged and relieved, that Conservator's bond be exonerated, that Conservator's final commission be fixed at \$2,400.00 and ordered paid forthwith; that attorney's fees be fixed in the sum of \$1,350.00 and ordered paid forthwith, and for such other and further instructions as the Court deems just and proper.

DATED: July 27, 1966.

JAMES HOLLOWELL,  
Attorney for Petitioner.

(VERIFICATION—446, 2015.5 C. C. P.)

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE 88

*I am the petitioner in the above entitled action; I have read the foregoing FIFTH ANNUAL ACCOUNT CURRENT AND REPORT OF CONSERVATOR UP TO AND INCLUDING JUNE 30, 1966 and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.*

*I certify (or declare), under penalty of perjury,\* that the foregoing is true and correct.*

*Executed on July 27, 1966 at Palm Springs, California.*

(S) Walter Melrose,  
WALTER MELROSE.

(PROOF OF SERVICE BY MAIL—1013a, 2015.5 C. C. P.)

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE ss

*I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is: 104 So. Indian Avenue, Palm Springs, California.*

*On July 27, 1966, I served the within FIFTH ANNUAL ACCOUNT CURRENT AND REPORT OF CONSERVATOR UP TO AND INCLUDING JUNE 30, 1966 on the \_\_\_\_\_ in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Palm Springs, California, addressed as follows: Bureau of Indian Affairs, 509 Industrial Place, Palm Springs, California.*

*I certify (or declare), under penalty of perjury,\* that the foregoing is true and correct.*

*Executed on July 27, 1966 at Palm Springs, California.*

KARYL GOESKE.

EXHIBIT D

ARNOLD & ROSENBERG,  
Palm Springs, Calif., January 16, 1964.

Re George E. Cameron, Jr., KDES lease of Indian land.

JIM HOLLOWELL, Esq.,  
174 North Palm Canyon Dr.,  
Palm Springs, Calif.

DEAR JIM: This is to confirm our telephone conversation in which we discussed the possibility of increasing the time within which KDES might cancel the proposed lease to a period of 9 months at possibly a lower monthly rental for that. Our present difficulty is that we anticipate approximately 2 months for FAA clearance, 2 months thereafter for our engineers to complete their work, and approximately 6 months to complete processing through the FCC. Thus, we will not know for certain that we can utilize the land for radio tower purposes until a later date than originally anticipated.

I would appreciate very much your views. As you know, KDES does wish to proceed with the lease, subject to necessary governmental approval for the erection of radio towers, and seeks only the best terms possible.

Personal regards.

Yours truly,

THURMAN ARNOLD, Jr.

JANUARY 27, 1964.

Re George E. Cameron, Jr., KDES lease of Indian land.

ARNOLD & ROSENBERG,  
Palm Springs, Calif.  
(Attention Thuman Arnold, Jr.).

DEAR THURM: This is in response to your letter of January 16, 1964. As you know, I proceeded with the lease post haste on the request of Bob McWhirter, and the lease has been prepared.

In all good faith we shall attempt to deal with you. However, if the land increases in value, this is something out of our control and of course if a better deal comes along, we will have to take it.

I think the best course to follow is to proceed with your end of it as fast as you can and we will have to take our chances on the value of the land increasing.

Sincerely yours,

JAMES HOLLOWELL.

\*Both the verification and proof of service by mail forms, being signed under penalty of perjury, do not require notarization.

JAMES HOLLOWELL,  
ATTORNEY AT LAW,  
*Palm Springs, Calif., May 6, 1965.*

Re estate of Anthony Joseph Andreas, Jr.  
K.D.E.S., INC., AND MR. THURMAN ARNOLD, JR., ITS ATTORNEY,  
*Palm Springs, Calif.*

GENTLEMEN: Pursuant to your request, this letter will serve as authority for you to obtain whatever easements are required in order to enable you to lease the hereinafter described real property from Stanley T. Spiegelman, Conservator of the Estate of Anthony Joseph Andreas, Jr., at your expense.

A portion of Allotment No. 48, ANTHONY JOSEPH ANDREAS, JR., described as North half ( $N\frac{1}{2}$ ) of the East half ( $E\frac{1}{2}$ ) of Lot 2 and the South half ( $S\frac{1}{2}$ ) of the East half ( $E\frac{1}{2}$ ) of the East half ( $E\frac{1}{2}$ ) of Lot 2, Section 6, Township 4 South Range 5 East, 30 acres, more or less.

Sincerely yours,

STANLEY T. SPIEGELMAN,  
*Conservator of the Estate  
of Anthony Joseph Andreas, Jr.*  
JAMES HOLLOWELL,  
*Attorney for Conservator.*

MAY 17, 1965.

Re Geo. E. Cameron—K.D.E.S. lease.

O'MELVENY & MEYERS,  
*Beverly Hills, Calif.*

(Attention: Richard St. Johns).

GENTLEMEN: At the request of Robert McWhirter, General Manager of Cameron Enterprises, I am sending you a carbon copy of the proposed lease. I would appreciate the return of same, inasmuch as we will need every copy we have.

The Bureau of Indian Affairs, Palm Springs office, already has a copy so that they could have a head start in going over it.

Also enclosed is a photographic copy of a legal description together with a rough map of the area showing the ingress and egress from Verona Road to the section line which your client desires. This description and map was handed to me by John Hollinger who has been acting as McWhirter's agent in this matter. It is my understanding that this legal description will afford adequate ingress and egress to the proposed leased premises and that the right of way must be obtained from the Water District. It is my further understanding that they cannot give a deed of easement but they are willing to prepare an agreement.

Inasmuch as the ingress and egress is a matter of prime concern to your client, Mr. McWhirter agreed that his attorneys should prepare this. I, of course, represent the Indian lessor.

Very truly yours,

JAMES HOLLOWELL.

JANUARY 10, 1966.

KDES CAMERON BROADCASTING Co.,  
*Palm Springs, Calif.*

(Attention Robert B. McWhirter).

DEAR BOB: Enclosed please find the Order in the matter of the Estate of Eugene Segundo and Anthony Joseph Andreas, Jr., for the California Water and Telephone Company.

These enclosed orders do not have the plats attached as I ran short; however a copy of the order together with plat has been sent to the California Water and Telephone Company today, January 10, for each of the above mentioned parties.

We are happy to cooperate with you and hope that the project is proceeding. It is my understanding that your client has agreed to bear the costs for these miscellaneous matters; I shall not bill you until we are finished.

If you run into any more problems please call upon us.

Very truly yours,

JAMES HOLLOWELL.

BEST, BEST & KRIEGER,  
ATTORNEYS AT LAW,  
*Riverside, Calif., March 4, 1966.*

Re K.D.E.S., Inc.

JAMES HOLLOWELL,  
*Attorney at Law,*  
*Palm Springs, Calif.*

DEAR JIM: Bob McWhirter has forwarded to us your letter of January 10, 1966 with the enclosures showing that the easements to the Telephone Company serving the radio transmission towers have been formally approved.

You make reference in your letter to an understanding on your part that K.D.E.S. would be bearing the costs for the utility easements. My recollection is that the agreement by K.D.E.S. to bear costs was related to and limited to the easements to the radio station for ingress and egress which are now being processed. This agreement arose from a discussion with Walter Melrose, Al Tanz, Paul Hand, Bob McWhirter and myself in firming up the terms of these K.D.E.S. easements as an alternate route to that across the flood control channel. It has been my understanding and I have discussed this with Jerry Pope of the Telephone Company that the utilities would bear their own cost in obtaining their easements and access upon Indian lands.

If I may be of any further help, please do not hesitate to contact me.

Very truly yours,

BEST, BEST & KRIEGER,

By WILLIAM R. DEWOLFE.

BEST, BEST & KRIEGER,  
*Palm Springs, Calif., April 6, 1966.*

Re KDES easements.

JAMES M. HOLLOWELL, Esq.,  
*Attorney at Law,*  
*Palm Springs, Calif.*

DEAR JIM: In accordance with our recent conversation, we have completed the two Easement Agreement documents concerning access to the KDES transmitter site in Section 6. All have now been signed on behalf of the radio station and I am enclosing all of the signed documents with this letter for signature by the Indian representatives which you have agreed to obtain, and for any necessary court proceedings.

When approved by the court, I would appreciate it if you would deliver the original and one copy of each of the Agreements to Paul Hand at the Bureau of Indian Affairs and two copies to us for our file and for the radio station. We will see that the Bureau receives the two \$50.00 rent payments as soon as we get word that Sacramento has approved the signed finished Agreements.

The Bureau has indicated that the fee for their processing of these Agreements will be \$10.00 each and I am sending a \$20.00 check to Paul Hand to cover this along with this copy of this letter.

If I can be of any help, please do not hesitate to call.

Best regards,

BEST, BEST & KRIEGER,  
By WILLIAM R. DEWOLFE.

APRIL 7, 1966.

MR. WALTER MELROSE,  
*Palm Springs, Calif.*

DEAR WALTER: Enclosed please find copy of Easement Agreement. If satisfactory please return so that I can prepare the Petition and Order.

Very truly yours,

JAMES HOLLOWELL.

MAY 2, 1966.

Re nonexclusive easement agreement—Anthony Joseph Andreas, Jr., K.D.E.S.,  
Inc.

DEPARTMENT OF THE INTERIOR,  
*Bureau of Indian Affairs,*  
*Palm Springs, Calif.*  
(Attention Mr. Robert Cox).

GENTLEMEN: Enclosed please find original and one copy of the above referenced easement agreement executed and notarized.

Very truly yours,

JAMES HOLLOWELL.

BEST, BEST & KRIEGER,  
*Riverside, Calif., May 16, 1966.*

Re nonexclusive easement agreement—Anthony Joseph Andreas, Jr., K.D.E.S.,  
Inc.

JAMES HOLLOWELL,  
*Attorney at Law, Palm Springs, Calif.*

DEAR JIM: In accordance with our telephone conversations on Friday, we have prepared and I am enclosing the original and six copies of the revised Non-Exclusive Easement Agreement between Radio Station K.D.E.S. and Stanley T. Spiegelman as Conservator of the Estate of Anthony Joseph Andreas, Jr. These documents incorporate all of the requirements which the Bureau recently forwarded to you.

It is my understanding that since you had already obtained Court approval of the original document, it will now be necessary for you to prepare a Supplemental Application and receive a Supplemental Order from the Court, and that you will proceed to do this right away.

As we discussed on the telephone, it will also be necessary for you to obtain a Supplemental Order with respect to the other Non-Exclusive Easement Agreement with the Conservator of the Estate of Eugene Segundo and the Guardian of the Estate of Juan Segundo, Jr., and that you will obtain a copy of that document from Saul Ruskin and proceed with that Supplemental Application this week.

I am sorry that these minor changes were necessary after you had obtained both of the Orders but it is our desire to make sure that these are properly approved all the way around.

Thanks very much again for all of your help.

Very truly yours,

BEST, BEST & KRIEGER,  
By WILLIAM R. DEWOLFE.

MAY 5, 1966.

Mr. ALFRED L. TANZ,  
*Trust Department,*  
*Palm Springs, Calif.*

DEAR ALFRED: Enclosed please find original and seven (7) copies of Non-Exclusive Easement Agreement for K.D.E.S., which is a joint agreement with Eugene Segundo and Juan Segundo.

Walter Melrose, conservator for Eugene Segundo has already executed the original and all copies and I have notarized his signature.

Also enclosed please find a copy of the petition and order in Eugene Segundos estate which will make it simpler for your attorney to petition for authority.

K.D.E.S. has requested the return of 2 copies to it, the forwarding of the original and 1 copy to the Bureau, which will allow you and your attorney a copy each and my client and myself a copy each.

As soon as you have obtained your order and executed the documents please distribute as hereinabove set forth.

Very truly yours,

JAMES HOLLOWELL.

JUNE 3, 1966.

Re KDES Lease.

BEST, BEST & KRIEGER,  
*Attorneys at law,*  
*Palm Springs, Calif.*  
 (Attention Mr. DeWolfe).

GENTLEMEN: It appears that I have done everything required with regard to the above matter and that my services are not required further, at least for the present.

In deciding upon billing I have run through my file, which to date is quite voluminous. Included in this billing are all service to date, including the Court Orders and non-exclusive easement agreement for both Stanley T. Spiegelman and Walter Melrose. I am not including anything with regarding to drafting of the original lease, that is a charge against the Indian estate. I am not including utility easements.

You will find enclosed by statement in the amount of \$3,500.00.

Very truly yours,

JAMES HOLLOWELL.

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BEST, BEST & KRIEGER,  
*Riverside, Calif., December 9, 1966.*

Re K.D.E.S.

JAMES HOLLOWELL,  
*Attorney at law,*  
*Palm Springs, Calif.*

DEAR JIM: Following your telephone call this morning, I pulled out our K.D.E.S. file because your call gave me some concern about which of the easements may not yet be complete.

It has been my understanding that this matter was fully completed on May 20, 1966 when Judge Brown signed ex parte orders in Indio cases #686 and #688 finally approving the non-exclusive Easement Agreements with K.D.E.S. concerning Allotment #P.S. 48 E and Allotment #P.S. 32 E, respectively.

From your telephone call, it is my understanding that these easements are complete, but that at a subsequent time, the processing of certain utility easements with which we were not concerned, could not be completed because of the resignation of Walter Melrose.

If my understandings as stated in this letter are not fully accurate, would you please advise me at once so that we may do whatever may be necessary to protect the easements by which K.D.E.S. claims access to its transmission towers in Section 6.

Best regards,

BEST, BEST & KRIEGER,  
 By WILLIAM R. DEWOLFE.

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DECEMBER 28, 1968.

Re. K.D.E.S.

BEST, BEST & KRIEGER,  
*Riverside, Calif.*

(Attention Mr. William R. DeWolfe).

GENTLEMEN: This is in response to your letter of December 9, 1966.

Several years ago, Bob McWhirter told me to do whatever was required to expedite this matter and he would see that I was paid.

I remember having a conversation with Mr. DeWolfe concerning the non-exclusive easement agreements. Because of certain typographical errors, it was necessary to obtain a second set of Court orders and I vaguely remember Mr. DeWolfe requested that I bill through your firm on these matters rather than include them in my over-all billing of K.D.E.S. for services to date.

Very truly yours,

JAMES HOLLOWELL.



BEST, BEST & KRIEGER,  
Riverside, Calif., December 30, 1966.

Re. K.D.E.S.

JAMES HOLLOWELL,  
Attorney at law,  
Palm Springs, Calif.

DEAR JIM: Thank you for your letter of December 28th in response to mine of the 9th.

On reviewing my file, I find that I do not have fully signed copies of the Non-exclusive Easement Agreements which K.D.E.S. has concerning Allotment No. P.S. 48 E and Allotment No. P.S. 32 E.

I wonder if I could impose upon you to send me a fully signed copy of each of those agreements at your early convenience.

As I indicated previously, I am not personally familiar with any arrangements which you had directly with Bob McWhirter concerning fees for work which you might do on this transmitter site. In the course of negotiating with the Bureau of Indian Affairs and with the conservators for access rights of way, Bob did agree to pay the reasonable attorney's fees which would be involved in obtaining Court approval of the access right of way agreements. We requested that both Saul Ruskin and yourself forward your statements for the petitions involved to us directly. Saul sent his statement for \$250.00 on June 7th, but as yet we have not received your corresponding statement.

I hope that you have a Happy New Year.

Best regards,

BEST, BEST & KRIEGER,  
By WILLIAM R. DEWOLFE.

MARCH 13, 1967.

Re K.D.E.S.

BEST, BEST & KRIEGER,  
Riverside, Calif.

(Attention Mr. William DeWolfe).

GENTLEMEN: This is in response to your letter of December 30, 1966.

The delay has been caused by the extreme illness of Walter Melrose, his resignation as Conservator of the Estate of Eugene Segundo, and the difficulty of communication. I am now the Conservator of Eugene Segundo, having replaced Mr. Melrose.

I have reviewed my files extensively and find the following to be the course of events.

Your firm prepared a non-exclusive easement and right of way, which I helped negotiate and worked with you on. I prepared a regular petition, order, and attended a hearing in both the estate of Eugene Segundo, and Anthony Joseph Andreas. My billing from each of the estates, for the conferences, and the court appearances, would be \$300.00 each.

Then we found that there were some changes required in the non-exclusive agreement. After some hurried phone calls, the changes were made and because of the time factor, an ex parte petition, order and hearing was required. I helped your firm expedite the matter with the Bureau of Indian Affairs, and ran liaison. I would bill \$500.00 for the work in each estate.

I therefore feel that I have due me as a reasonable fee on account of the Estate of Eugene Segundo, the sum of \$800.00 and the Estate of Anthony Joseph Andreas, the sum of \$800.00, or a total of \$1,600.00.

Then, there were numerous conferences with various utilities, the Conservators of the various Indians involved, and documents drawn for utilities. I made several visits to the site with representatives from utility companies, and with representatives from K.D.E.S. and the Bureau of Indian Affairs.

When we first got into these matters, Bob McWhirter told Mr. Spiegelman and myself to do anything and everything required to expedite the matter, and all fees and costs would be borne by K.D.E.S. I feel that an additional fee of \$1,900.00 is due me from K.D.E.S. It was my understanding that none of my Indian estates would bear any of these miscellaneous expenses.

Please let me know which portions of these billings you want me to send through your office, and which portion I should send directly to Mr. McWhirter.

Please let me hear from you at your earliest convenience, inasmuch as there are more utility documents to be executed, and I want to make sure that my Indian estates will not bear the expense of the legal fees involved .

Very truly yours,

JAMES HOLLOWELL.

APRIL 10, 1967.

Re K.D.E.S.

BEST, BEST & KRIEGER,  
Riverside, Calif.

(Attention Mr. William DeWolfe).

GENTLEMEN: I requested that the Bureau of Indian Affairs give me photo copies of both non-exclusive easement agreements so that I could forward same on to you. I did not have any executed copies either. I received my photo-copies today and cover letter from the Bureau indicated that they were furnishing photo-copies directly to your firm.

Could Mr. DeWolfe give his attention to my letter of March 13, 1967, concerning attorney's fees.

Very truly yours,

JAMES HOLLOWELL.

Mr. EDMONDSON. Let me ask you this question: If you are representing a number of different Indian estates, all of them in competition for development and for a lease and so on that would produce income to the individual Indians, how do you select the Indian client you will approach with an offer to lease his property or to buy someone else's property when you learn of a good opportunity?

Mr. HOLLOWELL. The way it happens, I have a map of that section 14 and county which is worn out from being opened up and closed. Normally, before this, potential lessees would come to me and they already have in mind the area where they want or the particular type of zoning they're looking to, and I have never had a situation where I have had to decide which Indian to send it to.

Mr. EDMONDSON. Suppose they wanted section 14.

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. How would you decide which of these different Indians that you represent, each one with an interest in development, you would go to with a proposal to develop his land and produce income for him?

Mr. HOLLOWELL. Very easily. Just the way the Bureau of Indian Affairs does it. First, I ask him what type of development and when I know what type of development, I know which type of zoning. We have commercial zoning to 300 feet, I believe, and from there to four, and after you've located the type of development then you take it from there.

Mr. EDMONDSON. Suppose you have two clients side by side with tracts that are suitable for development, both meet the requirements of the potential business. How would you make a decision, representing each of those clients, as to which one got the development and which one would not?

Mr. HOLLOWELL. I've never been faced with that choice. Developers usually make up their own mind. I can see what you are driving at.

Mr. EDMONDSON. You represent about a third of the clients, all of them having competing interests in terms of development, and I'm quite sure that, with the knowledge that you do represent a large number of them, that you would be one of the first people to be approached on the subject of development. How would you decide this question

of who gets the opportunity, and who has to let opportunity go by this time?

Mr. HOLLOWELL. Would you believe—I know it's hard to believe, but it's something I've never been confronted with because in section 14 we have some of the most unique problems in the world. You're either on the street or on a lot and when promoters have come in to me and they have been interested in a piece of the parcel, specific parcels, out of all honesty to them and not wanting a bad lease, I've had to point out to them which areas were landlocked, how far they'd have to bring in utilities, what the offset improvements would be, and I am usually put in the position of discouraging that, but I've never had two side-by-side situations.

Mr. EDMONDSON. Let's move to another situation, where you learn of a good piece of property to acquire that is a good business investment and you represent a number of clients and all of them have some money in the bank and are in a position to invest it. How would you make the decision as to which one of those clients you would offer this attractive purchase opportunity?

Mr. HOLLOWELL. This, I face in general practice of law all the time. I try to figure out which client was available and which one wanted to move on it.

Mr. EDMONDSON. In the summary on page 24, comment is made of the proposed sale of a piece of property to the estate of Shirley Ann Kitchen. As I understand it, in that instance you selected Mr. Lew Levy—

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON (continuing). As the purchaser in his capacity as conservator of the estate of Shirley Ann Kitchen, an estate which you represented, and filed a petition for purchase which I believe you prepared.

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. And, in this petition for purchase the property is described in leaps and bounds, and the owner is unnamed and the purchase price is left to the discretion of the court. Did that situation present any problems to you, or any questions to you?

Mr. HOLLOWELL. As I said in my earlier long-winded presentation to the committee, of ethics, "No," because it was agreed that the appraisal would be obtained from the Bureau of Indian Affairs. As a practical matter, I had one problem since Judge Brown was a judge, and I had several estates of a substantial nature. There again, picking the individual, I picked Mr. Levy because of his vast experience in real estate and because he is one of the best men in town in that field, rather than a conservator who was less qualified in real estate. I had a couple of others with large estates but I didn't feel that they were as qualified as Levy. In other words, I wanted someone who had experience in sound business judgment and not just rely on my advice as an attorney.

Mr. EDMONDSON. Are you familiar with the statement on page 25 of the task force report that says, "Lew Levy stated upon interview that while he was in Hollowell's office in February 1967, Judge Brown telephoned Hollowell, who interrupted the telephone conversation to ask Levy whether he would be interested in handling a parcel of land Judge Brown wanted to sell." Is that a factual statement?

Mr. HOLLOWELL. No, sir; it isn't.

Mr. EDMONDSON. Mr. Levy did not learn about this proposition while sitting in your office?

Mr. HOLLOWELL. He did not. There are some portions of that statement attributed to Lew that I can't believe. It says that he was shocked at the appraisal. Lew has been in real estate too long to be shocked. The statement attributed to Jenkins—by Jenkins that he told Lew that if the court order went through, he'd be bound by it. I can't believe that either because it was merely a petition for instructions.

Mr. EDMONDSON. How did Mr. Levy first learn about this?

Mr. HOLLOWELL. I called him, but it was not in my office. I called him on the phone after I had talked to Judge Brown.

Mr. EDMONDSON. So, this statement in the task force report as to what Mr. Levy stated in that interview is either erroneous or Mr. Levy has forgotten how he first learned about it; is that your contention?

Mr. HOLLOWELL. Levy could have forgotten. He's a steady client and I see him an awful lot.

Mr. EDMONDSON. Are the facts that are set forth in the task force report with regard to the valuation of the property as regard to the price at which its appraisal was finalized, correct, to your knowledge?

Mr. HOLLOWELL. Basically, yes. I know the appraiser went in to see Judge Brown because we crossed tracks. I was going in and he was coming out. I did receive instructions from Lew Levy to call the deal off. The appraisal was lower than what the judge would sell for and that's what the judge said, he wouldn't sell for that sum.

Mr. EDMONDSON. Do you see any problems of propriety or ethics in this transaction?

Mr. HOLLOWELL. I can see where it could be suspected, but as I said in my earlier statement, the Bureau was there and it was agreed that the appraisal would be gotten through the Bureau, and in my earlier statement that I sent to you right after the task force report—I believe I said that—without the intervention of the Bureau; yes, sir.

Mr. EDMONDSON. Well then, you felt in this situation that the Bureau would protect the Indians' efforts on this subject of the appraisal value; is that correct?

Mr. HOLLOWELL. Yes, sir. We've been relying on their appraisals for years.

Mr. EDMONDSON. And you went ahead in reliance upon the Bureau doing the honest and correct thing for the Indian despite the fact that for some years you have been convinced that they were doing a lousy job, and that they were not protecting the Indian, and that they were not taking care of the Indians' interest and that the whole system was sorry because the Bureau of Indian Affairs was not performing its function properly?

Mr. HOLLOWELL. Sir, after 6 years dealing with the Bureau, I knew this before I went into it. When you're appraising Indian land for sale, you're appraising usually too high. I honestly felt in this situation that nothing was going to be done, because they would appraise the judge's property too low. It's like any other economic factor, it depends upon which side your appraiser's working for, what side of the transaction, and I really honestly felt that the Bureau would come up with a low appraisal and that'd be the end of it. They came in at \$1,500 and both parties pulled off and that was the end of it.

Mr. EDMONDSON. I have imposed on my colleagues on the committee, and I think also probably imposed upon the reporter. Do you have any questions?

Mr. TUNNEY. I have some.

Mr. BURTON. I have two or three.

Mr. EDMONDSON. Would it be agreeable to you—I think it would be in fairness to the witness to take about a 5-minute break here and let the reporter get a rest and everybody have a smoke.

The subcommittee will stand in recess for 5 minutes.

(The committee recessed for 5 minutes.)

Mr. EDMONDSON. The subcommittee will come to order. Mr. Hollowell, I think you had completed your answer to my last question.

Mr. HOLLOWELL. I believe so.

Mr. EDMONDSON. I will yield at this time to the gentleman from Utah, Mr. Burton.

Mr. BURTON. Thank you, Mr. Chairman. Mr. Hollowell, did Judge McCabe appoint you as conservator for these Indians you represent?

Mr. HOLLOWELL. No, sir. I can volunteer this. A number of years before he left to go on the appellate bench, I talked to him about it, and I thought I could and, as I say, we didn't always agree and at that time he said I didn't have enough experience in Indian affairs and he didn't think I was qualified, and all my appointments as fiduciary later on were by Judge Brown.

Mr. BURTON. The task force report on page 22 alleges that “\* \* \* Judge McCabe apparently encouraged the attorneys for the estates to get the wards to make wills, letting it be known that he was available and willing to serve as executor.” Did he ever make that approach to you?

Mr. HOLLOWELL. No, sir. As God is my witness, no.

Mr. BURTON. The report alleges that a review of 27 wills of living Palm Springs Indians on file in the office of the examiner of inheritances at Phoenix revealed Judge McCabe is named as first executor in 10 of the wills and that you were the author of nine of them. You confirmed that, but it also says that in none of the wills in which Judge McCabe is named as executor contains a provision—all of the wills contains a provision that he serve without bond. Now, you wrote nine of the 10. Is it standard legal practice to make a person an executor of an estate without any bond?

Mr. HOLLOWELL. Yes, sir; in nine of 10 cases it's waived. I certainly wouldn't have recommended Judge McCabe if I thought a bond was required.

Mr. EDMONDSON. The gentleman from California.

Mr. TUNNEY. Thank you very much, Mr. Chairman.

Mr. Hollowell, I believe that you were in the room when I addressed a series of questions to Mr. Schlesinger, and I have these questions written down, and I would like to address the same questions to you.

Mr. HOLLOWELL. Fine.

Mr. TUNNEY. If you prepare a lease, should your fee depend on the complexity of the lease or on the amount of the money involved, in your opinion?

Mr. HOLLOWELL. I think both. Bob Schlesinger has a different practice than I do. He, I, and one other attorney were on a committee which

was trying at one time to formulate a minimum fee for Indian estates. I do not charge time for an unsuccessful lease, and I'd say for every successful one, I have two unsuccessful ones. I'm willing to speculate along with my Indian clients on that basis for him. I do not charge for all the fruitless lost time. When I do obtain a good lease, I would expect to obtain a larger fee. Bob and I use two different systems.

Mr. TUNNEY. Well, you indicated in your prepared statement on page 6, that—

It was my practice in the year 1963 to file an accounting specifying the number of hours I had devoted to the particular estate and to request compensation on an hourly basis.

I assume then, from your remarks that you changed your basis of fixing fees after 1963?

Mr. HOLLOWELL. Actually, no. The policy in regards to lease fees I acquired from Judge Therieau and it's always been the policy. I did, in those early years, keep track of the charged hours for miscellaneous work. Under the present system now, when I file my accountings with the court, I specify each item of work and either set a unit price, say \$150, or hours, depending on whether it was conferences, so basically, I have not changed. Always, on a lease, I've been speculating with my Indian clients on success.

Mr. TUNNEY. And are they aware of the fact that if the lease negotiations are unsuccessful, that they are not going to be charged a fee, and if the negotiations are successful, there's going to be a percentage?

Mr. HOLLOWELL. I believe so, because I've talked this over with everyone including brokers, complaining basically, that I put in so much work and so many leases have gone under. I believe they know that.

Mr. TUNNEY. Do you ever charge on an hourly basis if the lease is not negotiated?

Mr. HOLLOWELL. No, sir. I am strictly speculating on success.

Mr. TUNNEY. If the lease is similar to one prepared previously, should you receive less compensation since the work has already been done once before?

Mr. HOLLOWELL. There again, I'll have to give you a lawyer's-type answer. The Bureau has, I think, sincerely tried to come out, and they have over a period of years, with a form lease. About the time that form lease is prepared, we are throwing away half the pages and starting all over again, with the exception of the Sunquitz leases where the fee is put in it. In every instance, every promoter is different, every developer is different, and you actually are hammering out basically nine-tenths of the matters with a new individual and it's different, although—no, I can give a better illustration where there was no charge. The Seven Lakes lease which I drew up, took about a year of preparation. The promoter did not know exactly where he was going. He jumped from one piece of property to another. I drew the lease, it was approved, and the court awarded a fee. Along came Seven Lakes again, they wanted to pick up an extra adjacent piece of property. They did this because—by supplemental agreement which only took up a couple of pages, added the additional property and changed the amount of the minimum rent. No fee, because they didn't need my services. It was a very simple document, and the Bureau drew it up, if I remember right. This does happen.

Mr. TUNNEY. Well, what about the ex parte orders that you obtained, and I believe the investigation report, the task force report refers to these ex parte orders in an unfavorable light. What did you consider to be unique, for instance, about the services that you performed in getting ex parte orders for Mr. Fey, as he was subleasing a condominium that he had?

Mr. HOLLOWELL. That's a very fair question. My standard fee for a regular routine court order, appearance, and petition is \$150. Early in the game when Mr. Fey started coming to me, I discovered one of Roy's keys to success is he's a very aggressive man. Roy wanted everything yesterday, and he volunteered to pay my fees. He required that I drop everything and get his work out then, and there's been many a night and many a part of a Saturday or a Sunday that my secretary and I worked to get this work out. Therefore, I did charge an additional premium because of the rush order. I would have much preferred Roy to have thrown his work on the pile and grind it out in the regular course of business and charge my regular fee.

Mr. TUNNEY. Well, there are two aspects as I see it to the mention of the fees that you were charging Mr. Fey in the ex parte orders. In the investigation report, the one aspect is that you were not charging and the other aspect is that you were charging Mr. Fey while, in fact, you were representing your Indian client as well. Would you please address yourself first to the charge of \$3,500 that allegedly you billed Mr. Fey for, I believe it was, 24 hours work that you indicated you had spent working on documents and that you submitted a bill for \$3,500 and he wrote back to you and said that he thought there must have been some typographical error?

Mr. HOLLISTER. Yes, sir. The task force has an exhibit. I took no part in negotiations. Mr. Fey came to me, it was a last minute thing and he wanted the documents hammered out. Now, I have lived with the Bureau, you see, for quite a while. I know the wording, terminology the way the Bureau wants it. We talked over everything, we hammered it out; it was a major document for him, and I thought a reasonable value was what I billed him. I think if he had gone—well, No. 1, his own lawyers couldn't cope with it. He could have gone to Bob Schlesinger, Bob could do the work, he could have gone to Ray Simpson, Ray can do the work, and now in our area there's nobody else really qualified to do it, and I think to have any stranger do the transaction, they would have charged him more.

Mr. TUNNEY. Did you charge any fee for your services to Mr. Patencio, to the estate of Mr. Patencio?

Mr. HOLLOWELL. Never. There is one item which hasn't been mentioned by me, possibly I should. Those trustees when they are individually approved on each little lot or house, they come to my office but there I'm working for the conservator, and I have a practice of going over it, see whether it conforms with the court and I initial it's OK, and it goes to the conservator, but I've never double charged.

Mr. TUNNEY. Never charged for the same services, both lessor and lessee?

Mr. HOLLOWELL. Never, sir.

Mr. TUNNEY. All right.

Mr. HOLLOWELL. When this investigation broke open, we found Mr. Fey, I think, in a very unfortunate situation. He doesn't know the

Bureau, and he doesn't want me and I talked it over with Mr. Kettmann and Mr. Kettmann said, "From now on, don't bill Mr. Fey. Bring it up, your accounting, and we'll have the estate pay for it," and that's the procedure we're following now.

Mr. TUNNEY. With regard to the ex parte orders, how many did you have to obtain for Mr. Fey when he was subleasing the condominium?

Mr. HOLLOWELL. Mr. Sigler has a copy of every single one. There were more than subleasing, Congressman. They would develop a small parcel at a time, and this has been one of his keys to success. He didn't try to do it all at once, and he'd come in and obtain one court order which would possibly cover the 20 units and there would be a specimen made, a deed of trust, and sublease all covered by this one court order. Then I would never see Mr. Fey again except for his employees bringing the individuals in on each one where I would check to see whether it correlated with the court order and initial it for my conservators so he could sign it.

Mr. TUNNEY. I understood from your testimony, or from the testimony of Mr. Schlesinger, that it was not necessary to have an ex parte order for each sublease, that you could have a master lease which would provide for subleasing without going back to the court. Can you explain why, in the Fey matter, you felt that it was necessary for you to do it the way that you did it? That is, require ex parte orders.

Mr. HOLLOWELL. Yes, sir, that's a logical question. I did not require it. That's—the Indian Bureau required it and the title company required it. Bob Schlesinger is referring to a case where you have one lease and a developer develops the entire parcel, and we've had quite a few go under who have done it that way. In Mr. Fey's case, he developed tracts one at a time, with maybe 15, 20, or 30 units in it. Each tract or unit made, as he went along, Mr. Fey got a little more sophisticated and other things came up, so we were handling his on a tract basis. If he had wanted to, he could have done the whole matter at once, but we've had too many developments go under by putting too much on the market at once.

Mr. TUNNEY. Well, as I read from the files, and I'm not sure exactly where I read it, Mr. Fey thought that the excessive charge was for ex parte orders and was hindering the development of this estate, this real estate. Do you recall ever seeing that statement?

Mr. HOLLOWELL. I saw the statement, Congressman, but the man never once complained to me except when we had the dispute over the \$3,500 item, and then he said to me later, he paid it rather than go through a lot of litigation, but you must remember I was only the attorney for both Judge Therieau and for Gus Kettmann. If Mr. Fey ever had any complaints, he could have taken it to them. I was in an employee status. I don't believe that's what Roy said. This is an alleged statement, it's not a signed statement.

Mr. TUNNEY. On page 20 of your alleged statement, you mentioned that one of the possible motivations for Mr. Cox's singling you out is that you stood up to him back in 1965. Would you care to amplify that statement? What do you mean by "standing up" to Mr. Cox?

Mr. HOLLOWELL. When Bob Cox first came here, he was quite frank in stating that he was serving in two capacities, one as an investigator and one as a trust officer, more or less, for the Bureau. Bob, I had



nothing against personally, at that time. He had an attitude which I think is typical of those who are salaried. He felt that everything should have a set place, and everything should be fitted into its specific category, and we got into a dispute right away, and I'd say, "Bob, you can't come up with a minimum fee schedule; it doesn't fit, it doesn't work," and we went on from the very beginning. Bob would have liked to come up with a schedule and said a court petition is worth so much, accounting is so much, that sort of thing, and as lawyers, we didn't make it from the very beginning.

Mr. TUNNEY. What about the practice of charging for a full day in court when you perhaps have four or five matters on the docket of the court and charge each of the five or six for a full day in court, and—I'm picking figures out of the air, but there are allegations that this was happening, that this was a practice followed by you, that you would charge each of several Indians, when the time in court would actually, in fact, take not too much time. Is this common practice?

Mr. HOLLOWELL. I think Bob is—this is the only thing that keeps a lawyer from being a mechanic. If I have four, there's no necessity for me to have four if I'm going to get paid for one. This is where the success factor comes in, where one lawyer can be more successful than another. During recess and lunch I talked it over with several of the attorneys present, and I doubt if many lawyers charge on that basis, and when I have four divorces on 1 full day, boy, I charge the full fee for all four.

Mr. TUNNEY. What were the circumstances, to the best of your knowledge, of your taking over Judge Therieau's old caseload when he was appointed to the bench? Were you old friends or—what were the circumstances surrounding that?

Mr. HOLLOWELL. We weren't old friends. I believe that shortly after I had heard of the judge's nomination as a full time municipal court judge, I contacted him and said that I was very interested in taking over his practice. I understand other persons were interested, too. He and I did make an arrangement. As I told the task force investigators it was for a fixed lump sum which I paid. I did not particularly want to give it to the task force for the simple reason that I felt that the very next day it would be in the newspaper and everyone would know my business. The task force was asking me because they were talking about fee-splitting, and I think that fee-splitting would be on a percentage basis, or percentage arrangement, and the judge and I did not have a percentage arrangement. Part of the value that I purchased was his library, which I told him jokingly, the judge, that every book salesman in the world must have gotten to him. It was a tremendous library, and I purchased this at replacement value.

Mr. TUNNEY. What percentage of your time do you spend on Indian matters?

Mr. HOLLOWELL. I couldn't give you an estimate for this past year because I have, in a sense, not been constructively working. I've been on this project, but I would say three-quarters, at least.

Mr. TUNNEY. Does this practice represent three-quarters of your income?

Mr. HOLLOWELL. It would normally, except—darn it all, I've got to qualify this, Congressman. I have had a few estate matters and a few

cases which have thrown my income up, and in a few years—I couldn't actually—I'd have to qualify that.

Mr. TUNNEY. So, in those years, it would be less than 75 percent of your income?

Mr. HOLLOWELL. Yes.

Mr. TUNNEY. Mr. Hollowell, when it became necessary to appoint a guardian for Joseph Patencio's son because of his inheritance, the family retained Ray Simpson for this purpose. You had previously been released as attorney for Mr. Patencio's estate and yet, did you file a petition for the Patencio boy before Mr. Simpson did, and without talking, apparently, to Mr. and Mrs. Patencio which resulted in an order to pay you as well as retain counsel to defend them against your action? This is contained in the summary, as you know, of the report. It is stated that you disregarded the rights of the parents, disregarding the feelings and the rights of the parents. Do you believe that they had the right to be consulted in this regard, or do you think the allegations that were made in the report were unfair to you?

Mr. HOLLOWELL. I would like to say that I feel I had exercised poor judgment in that particular matter. I represented the whole family, and am still the attorney of record. In that particular—the father, although Ray Simpson had come into the estate because the father did not like me, and there was ill feelings, I represented the remainder of the family and I was faced with a situation where the executor and the executor's attorney were working actions so they could make a partial distribution, and looking back on it, gentlemen, I think I made a mistake. It caused increased animosity, and I am anything but perfect, and that's something I wish I hadn't done.

Mr. TUNNEY. Thank you for your frankness. In the estate of Eugene Segundo, he petitioned for your removal as conservator. You charged a fee of \$6,000 covering, among other things, according to the Department of the Interior report, for services rendered as an attorney. Since California law, according to the report now, does not provide for fees for a conservator I wonder if you could explain this attorney's fees for a conservator. I wonder if you could explain the charge? I know in your statement you said that it was wrong, that it was a misstatement of law. Would this be your answer to the question that I have addressed to you, as the reason you charged the \$6,000?

Mr. HOLLOWELL. Yes, sir. I believe Mr. Cox in the report is completely wrong. I unfortunately, got involved in that long litigation. The reason I spent so much time in court was that, as an attorney, I invoked the attorney-client relation; and the wife's attorney, doing a good job, kept me baited and kept going after me for days, and days, and days, and I felt that even though Eugene was dissatisfied with me, and I was willing to step aside, I wasn't about to break that attorney-client privilege. Now, strictly, I don't think I was entitled to that privilege. I think what the attorney was after was, "How did he look? How did he act?" and, coming down to specifics, "Was he intoxicated"; but I managed to hold my own on the stand, and refused to testify because I could not distinguish between his actions and his conversations, and gosh knows, I forget how many days now I spent in court on that matter.

Mr. TUNNEY. I'm sorry to take so much time of the committee, and you, Mr. Hollowell, but I have one last question, and that is, we have

heard from Mr. Schlesinger, another attorney, that he felt that the system as it operated here in Palm Springs for the administration of the Indian estates was not working adequately. Do you feel that the administration of these estates is inadequate; and, if so, what changes would you recommend?

Mr. HOLLOWELL. Sir, I do not believe that we need both the systems. There is a useless overlapping. My thought is, let the Government handle it all, or have the guardian-conservator system, or something like it. I agree completely with Mr. Schlesinger regarding the conservator system, that it is imperfect like any other; but it works, and it's more of a better tuned-in system to allow our Indian clients to get into society and fit in rather than holding him as a ward of the Government forever; but the two systems side by side are horrendous, because you have a double take imposed upon a double take. I can summate a lease deal in 2 weeks, even if it's a 30-page lease, by working hard; and compound that with the Bureau and send it, it would take me 6 months. I'm prejudiced, I'm partial. I feel that a somewhat selfish self-motivated businessman or attorney trying to make a fee for himself and make money for his client will do the job faster and better than the Government as it is set up now. The two systems overlapping on each other is hard.

Mr. TUNNEY. I yield to the chairman.

Mr. EDMONDSON. You have so testified, I think, that in one instance, and I would assume this would apply to your feelings across the board in similar cases, that you did not feel a particular problem about checking out the value of a piece of land for purchase purposes because the Bureau of Indian Affairs is going to be checking it, and they would make the determination on that, and you have no hesitancy in submitting a proposal for a deal to go through involving a client because you felt the Bureau of Indian Affairs would protect the client in terms of the value that you had included in this particular transaction. Now, could it be that a good part of the reason for the time consumed at the Bureau end of it is that is the feeling that you have expressed is widely held and everybody is expecting the Bureau to protect the Indian in terms of his rights and his getting a fair value for his money?

Mr. HOLLOWELL. No, sir. I hate to criticize the Government that bad, but they aren't set up to go into competitive business. It's just too slow and there's too much redtape.

Mr. EDMONDSON. And, the question of the value of the deal that is proposed to the Indian and the value of the property that it is proposed he acquire, is not basic and fundamental to a determination of whether it is a good proposition?

Mr. HOLLOWELL. Are you referring to generalities, now?

Mr. EDMONDSON. I'm referring to generalities, and to specifics, both.

Mr. HOLLOWELL. In general—

Mr. EDMONDSON. In general, how can you make a judgment as to whether things are a good investment or a good deal if you ignore the matter of value on a particular land and leave that judgment to be made by somebody else?

Mr. HOLLOWELL. We had no choice, and this is one of our problems. The Bureau has the last say. We must use their appraisal.

Mr. EDMONDSON. So, you don't have to make any check of the value of the land because they make it down there?

Mr. HOLLOWELL. They make the appraisal, whether we agree with it or not.

Mr. EDMONDSON. Thank you.

Mr. TUNNEY. I just checked with the chairman, and he's going to let me continue for a few more minutes. I'd like to ask you just a few more questions on points that are appearing here in the report, things which, I think in all fairness, we should have some testimony from you on.

Mr. HOLLOWELL. All right.

Mr. TUNNEY. What do you consider an extraordinary service, and an ordinary service when you are acting as a conservator?

Mr. HOLLOWELL. An ordinary service would be collection of income, payment of normal routine monthly bills, a certain amount of conference time with your Indian client; although my thinking used to be to the contrary, I think possibly now, purchasing an automobile would be routine, minor traffic tickets, that sort of thing. I would classify as extraordinary, a long-term lease, hiring an attorney for some sort of criminal problem or domestic relations problem. I do better being shot specific questions and being asked to which is it.

Mr. TUNNEY. How do you, for instance, arrive at your fee schedule for extraordinary expenses?

Mr. HOLLOWELL. For the attorney, in a sense——

Mr. TUNNEY. Let's say, as a conservator.

Mr. HOLLOWELL. OK, as a conservator. When I first came into the picture, I merely asked for a reasonable fee and left it up to the discretion of the court, and later on, after our policy memorandum say, in 1964, I started breaking it down and taking three-quarters of 1 percent, which seemed to be the new guidelines; and then asked for another sum for the extraordinary, and that's been pretty much the custom in my office since 1964. I think the banks all along, have used three-quarters of 1 percent as their guidepost.

Mr. TUNNEY. Well, when you would fix a fee for extraordinary services, would you take into consideration the time involved, or would you set as a percentage of the service performed, a percentage of the amount of money involved for services performed?

Mr. HOLLOWELL. Most of our conservator clients, it was a matter of time and effort and ability.

Mr. TUNNEY. Then, it was not a percentage?

Mr. HOLLOWELL. No, sir; because I—this is not to volunteer, but I've seen tickets and other things disappear and I have seen some conservators really go out and go-for-broke for their Indian clients, and I've never questioned how they accomplished it, or how they did it. I do know that we never charge on a percentage.

Mr. TUNNEY. How does the judge question fees for extraordinary services?

Mr. HOLLOWELL. Judge McCabe had a prehearing conference on my estates up until the time he went on the appellate bench, and he would have the attorney regarding, and where we had a person capable of understanding, he would have the Indian client, too, and in those years my petitions were somewhat sketchy because we'd gone over them; the whole thing in chamber. Judge McCabe wouldn't set the fee always.

He'd hear what we had to say, it'd be said in an informal-type conference, and when he left and Judge Brown took over, we were then in the McCabe-established policy of setting everything out in the petition. I don't think I've ever had any of those preconference-type things with Judge Brown, but I did with McCabe.

Mr. TUNNEY. And, how does Judge Brown decide the fees, the approval of the fees?

Mr. HOLLOWELL. I think—wait a minute, I can throw some light. I remember just several years ago I—one of the task force exhibits there, attributing an ulterior motive to it, I had an accounting and then I had to amend it later, and I had forgotten to set out item-for-item what I was charging for each piece of work, and Judge Brown is a reader and I got down in court and he told me I'd have to file an amendment to it, and then I filed the amendment and set out each piece of work separate and the amount to be attributed to that, so I think Judge Brown's attitude was, he had to be satisfied in writing. We've been mad at him, too, in giving us less than we asked for.

Mr. TUNNEY. Has he ever disallowed your fee?

Mr. HOLLOWELL. Yes.

Mr. TUNNEY. You have a question at this point?

Mr. EDMONDSON. Yes.

Mr. TUNNEY. All right, Mr. Chairman.

Mr. EDMONDSON. Would you say that the general guidelines that were used with reference to charging for fees by a conservator and charging for fees by an attorney for a conservator are the same?

Mr. HOLLOWELL. The attorney is to only be paid for the work he does, and I do have estates where nothing is done for an entire year, and my only fee is for the preparation of the accounting.

Mr. EDMONDSON. Is it just a coincidence, or a remarkable and unique situation that in this exhibit which is in the file as part of exhibit No. 26 in the matter of the conservatorship of Anthony Joseph Andreas, Jr., that the fee which is claimed by Mr. Spiegelman as conservator is \$4,000 which is identical to the fee which is claimed by you as attorney for the conservator in the same estate?

Mr. HOLLOWELL. I would say so, because in most cases my fee is different.

Mr. EDMONDSON. Wouldn't that be a rather remarkable coincidence when you are figuring out the amount of time and energy and effort and so on, that's been put in, and the factor of the value of the estate entering into it, that the figures would come out to be identical in this particular pleading that was filed in the Superior Court of the State of California in and for the county of Riverside on July 6, 1966?

Mr. HOLLOWELL. In 33 estates, as Secretary Udall set as an average rate, that is a coincidence, because in most cases—I can't think of any other, and I wasn't even aware of that one, the fees are different.

Mr. EDMONDSON. Thank you.

Mr. TUNNEY. Thank you, Mr. Chairman. As an attorney, you only should be paid for services performed, while as a conservator, he is paid a percentage if there were no services performed. I understand this is discretionary with the courts; is it not?

Mr. HOLLOWELL. No, sir. As a conservator, I was paying bills, taking in rent, and performing services maybe not on a daily basis, but

continually. As an attorney, you only perform services when something comes up and you are asked to do something, and a conservator, I rightfully believe, should spend a certain amount of time with his work. He is responsible for the estate, and for the investment and decisions. I've been in situations with Eugene where it started out \$100,000 in treasury bills and I followed the practice of my predecessor and left them in treasury bills. That is my responsibility. As an attorney, I'm not concerned with it. I'm a mechanic that is called in to find out the divorce, get the court petition, and that line.

Mr. TUNNEY. As a fiduciary and a conservatorship, relationship with an Indian ward, do you feel that this should be taken into consideration in fixing a fee, or do you think that it should be a straight arms-length transaction? Do you think a fiduciary relationship should enter into the fee of a conservator, or do you think it should be an arms-length transaction?

Mr. HOLLOWELL. I don't really understand the question.

Mr. TUNNEY. Well, assuming now that you have extraordinary services performed for one of your wards as conservator, there is a fiduciary relationship that exists between you as conservator, and your ward. Do you feel that that fiduciary relationship should enter into your determination of what your fee should be, or do you feel that you should fix your fee as though you were dealing with another party, a third party, and it was an arms-length transaction?

Mr. HOLLOWELL. It feel it's arms-length in the sense that the judge actually sets here the fee.

Mr. TUNNEY. But, you make a recommendation, don't you?

Mr. HOLLOWELL. Yes, sir.

Mr. TUNNEY. So, as a technical matter in these cases, the fee is really fixed by the attorney in his request, isn't this the case?

Mr. HOLLOWELL. I would say that's a fair statement. Most of my lay clients ask my opinion.

Mr. TUNNEY. Do you think the fiduciary relationship plays a part in your decision as to what fee you should charge for extraordinary services just as—not you personally—just as a general matter, in the management of these Indian estates?

Mr. HOLLOWELL. Oh, I think so, because you have the burden upon you to try to be fair, try to to be reasonable.

Mr. TUNNEY. And, did you take into consideration personally now, when you were making your decisions as to what was fair to charge for the extraordinary services?

Mr. HOLLOWELL. Yes, sir. In the Segundo matter, I stated I felt I was entitled to more, but I had made a representation to Mr. Segundo that acting in pro per, I can do it cheaper than if he had a conservator and an attorney, so I set forth all of my services and I said I would like so much. I think my services actually were worth a lot more than what I asked for.

Mr. TUNNEY. Do you believe it is the duty of the conservators to try to educate the Indian so they will be able to take over their own estates?

Mr. HOLLOWELL. Good question. Legally, no, but I think most of them try. I know I've tried with some of my younger people, to encourage them. Ray Leonard Patencio and I have talked many times about his going to law school when he was younger. I think that is

a duty not imposed by law, but I think it's something that Judge McCabe and Judge Brown expected us to do.

Mr. TUNNEY. Were there any Indian wards, to your knowledge, released from the conservator relationship as a result of a petition by the conservator of the Indian estates?

Mr. HOLLOWELL. There were.

Mr. TUNNEY. How many?

Mr. HOLLOWELL. There'd be Pete Siva.

Mr. TUNNEY. Was that at his request or the request of the conservator?

Mr. HOLLOWELL. I don't honestly know. May have been at Pete's request. Another termination was Virginia Sanchez. That has been quite a while ago, but I—Virginia hired me to prepare the petition for her termination. I believe that was—I believe that it was at both the request of the conservator and she. I had two petitions filed just recently which haven't come up yet, where I, the attorney for the conservator—I'm trying to think of ones in the past. Leroy, there was a petition filed on his behalf, or by him, for the termination of his conservatorship some time ago.

Mr. TUNNEY. I'm thinking of before the investigation had started.

Mr. HOLLOWELL. No, there were very few, very few.

Mr. TUNNEY. Well, one of the things which has come to my attention as a problem with this arrangement in existence in Palm Springs was that the Indians, once they became 21, and once they automatically had a conservator appointed for them, had little or no opportunity ever to void this onus for having a conservator to be able to get out from under the conservator relationship, and apparently, from your testimony you know the system, or you feel that the system as far as the law itself is concerned sanctions this, because under the law there is no requirement to educate the ward to enable the ward to get out from under the conservator relationship.

Mr. HOLLOWELL. I think there's a moral to this. I have one lady I am conservator for who I tried to include in all my negotiations, encouraged to go to the College of the Desert and I'm pretty sure she's going. I helped her with the application forms. I think the vast majority of people have done everything they could to encourage and teach. I've been in an unhappy situation of having the Bureau of Indian Affairs come in and object to my fees, because I have several Indians who are very curious about legalities and they want to know everything that's going on. I have two little girls that come in and we spend quite a little time together. My petition for fees under submission last week, Judge Marsh's big objection to my fees were that I spent this time with the girls, as new tenants answering questions that the bank wasn't qualified to answer. They were insisting and they were questioning everything, which I think is beautiful, and they wanted to know why.

Mr. TUNNEY. But, as I understand your testimony, the law does not provide that a conservator has to make an accounting to any higher authority, judge or anyone else, that he is actually trying to educate his ward so that that ward will be in a position to terminate the conservator relationship and be able to manage his own affair?

Mr. HOLLOWELL. No, the law does not provide that.

Mr. TUNNEY. There's no requirement under the law?

Mr. HOLLOWELL. Judge McCabe did it. It's in his policy memorandum, but I'd say the law as enacted by the State of California does not make you guardian of the person, place that responsibility on you. The court in Indio has said that if you are going to take on an Indian guardianship, they expect you to do that, but you're entirely correct, Congressman.

Mr. TUNNEY. So that an Indian could conceivably spend his entire life as a ward without getting any instructions whatsoever from his conservators in how to handle his affairs and so far as the law is concerned, this would be a perfectly proper course of conduct for the conservator?

Mr. HOLLOWELL. Legally, yes.

Mr. TUNNEY. Thank you very much.

Mr. HOLLOWELL. Can I tell you something else?

Mr. TUNNEY. Certainly, please.

Mr. HOLLOWELL. This is the attitude of the Bureau up to date. They have felt no compulsion to educate them, and legally, I don't think they have a duty to, but I think we all have a moral duty to do everything we can to get the Indian educated.

Mr. TUNNEY. Thank you very much.

Mr. EDMONDSON. On that particular point, I have some difficulty reading this, because these copies are a little weak in reproduction. The task force report states " \* \* \* California law does not require a ward or conservatee or his parents or family receive adequate notice of proceedings affecting them. Moreover, these conservatorships are unique in that the Indians were given to understand that their conservators would undertake to educate them to handle their own affairs," and there is an exhibit which sets forth the conditions that apply with regard to that, to conservatorships.

Mr. HOLLOWELL. Congressman, that is Judge McCabe's policy memorandum and, as I volunteered before, he made this a policy.

Mr. EDMONDSON. Was this an accurate statement, that the Indians were given to understand that the conservators were going to educate them to handle their own affairs, but the conservators were not under any direction or obligation to do it?

Mr. HOLLOWELL. They are not under an obligation to do it, but I think the vast majority are trying. Now, Judge McCabe—

Mr. EDMONDSON. Now, the court that appoints the conservator issues the policy memorandum, and the conservator operates under the authority of that court. Wouldn't he be under a positive direction to do it?

Mr. HOLLOWELL. That's what I was explaining to Congressman Tunney. The judge, Judge McCabe, imposed additional requirements that had not been imposed by the legislature.

Mr. EDMONDSON. But, whether it is required by the legislature or by the court that is appointing the conservator, it would seem to me to be a positive duty upon the conservator in any case, wouldn't it?

Mr. HOLLOWELL. I feel a duty; yes, sir.

Mr. EDMONDSON. It would go beyond moral, wouldn't it? It would actually be an obligation, if you assume a conservatorship under the direction of the court in Indio with the policy memorandum in effect, wouldn't you be under an obligation to the court to carry out its policy?

Mr. HOLLOWELL. Yes, sir. I feel that obligation as an individual.



Mr. EDMONDSON. It's beyond moral obligation, very clearly by your own testimony, isn't it?

Mr. HOLLOWELL. Yes, sir.

Mr. TUNNEY. To your knowledge, was there ever a conservator terminated because he did not educate or instruct his Indian wards?

Mr. HOLLOWELL. Not that I know of, Congressman. We had some terminations because of ill feelings that came about because the Indian disagreed with the policy or something the conservator was doing, and the conservators have quit, feeling that they didn't have a happy client to work for, and it was not a happy circumstance, but I don't think there's ever been any such situation arise because anyone refused to help educate. I know some of my people spent a great amount of time—

Mr. TUNNEY. I'm aware of that fact, and I know some of the conservators, too. The question really though is, was the policy guideline abided by, and who was checking to determine whether or not the policy guidelines were abided by. This is the thought that I had, and my question simply was to whether or not the court had made a determination in any particular instance that the policy guidelines had not been adhered to.

Mr. HOLLOWELL. I don't believe they did.

Mr. EDMONDSON. Mr. Sigler, any questions?

Mr. SIGLER. No questions, Mr. Chairman.

Mr. BURTON. No questions, Mr. Chairman.

Mr. EDMONDSON. Mr. Hollowell, thank you very much for your testimony, and thank you for a very excellent documentation that you supplied as part of your position, and thank you for your patience with us in answering our questions.

Mr. HOLLOWELL. I thank you for your patience, and I again thank our Congressman for getting you here. I appreciate it.

Mr. EDMONDSON. Our next witness is Mr. Henry V. Cleary.

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. Mr. Cleary, you have a very lengthy statement also, and I will offer the same to you as was afforded to Mr. Hollowell, that if you get too tired of standing there in the course of your presentation, I will appreciate it if you will let us know, and we will try to get one of these other microphones over there and let you sit in a chair and testify.

Mr. CLEARY. Thank you, Mr. Chairman, and in the interest of time, I request Mr. Sigler that so much of my report would be duplicated, so I will not read it verbatim.

Mr. EDMONDSON. Even so, would you like to have your entire statement put in the record as though you read it in full and then comment on the highlights? Is that your feeling, and not duplicate it?

Mr. CLEARY. Yes, sir; I'd appreciate it.

Mr. EDMONDSON. If there is no objection from the committee, the statement of Mr. Cleary consisting of 41 pages will be made a part of the record at this point.

(The document referred to follows:)

#### TESTIMONY OF HENRY V. CLEARY

My name is Henry V. Cleary, I am an attorney at law and licensed to practice in the State of California. I am a member of the Desert Bar Association, the Riverside Bar Association, the Orange County Bar Association and the State

Bar of California. I am also a member of the American Board of Arbitrators, I am past President of the Desert Bar Association and served for seven years on its Board of Trustees. Currently I am the attorney for the Association of Conservators, Guardians and Allottees of the Agua Caliente Indian Lands and Estates.

In order for this Committee to fully comprehend the factual and legal conditions that exist at the present time, which conditions will be affected by any future legislation, it is necessary, initially, to review the history of the Agua Calientes and the Congressional enactments and Department of Interior policies which have effected them.

Congress by the Act of March 2, 1917 (*39 Stat 969, 976*) "authorized and directed" the Secretary of the Interior to proceed to cause allotments in severalty to be made to members of the Agua Caliente Reservation. Approximately twenty-eight (28) years later the Interior Department had no membership roll of the Agua Caliente Band of Mission Indians, although it had been the Trustee of approximately thirty thousand (30,000) acres for over fifty (50) years. Following one of the severest chastisements ever handed down by the Supreme Court of the United States in *Arenas vs The United States 137 F 2d 199 Reversed and Remanded 322 US 419; United States vs Arenas, 158 F 2d 730 Certiorari denied 331 US 842* the Interior Department still did not carry out the full mandate, for it allotted only forty-seven (47) acres of land to some Indians thus leaving thousands upon thousands of acres unallotted but nevertheless in Trust.

As a grand gesture to recover some prestige with its Indians and the public, the Interior Department in 1949 requested and received consent of Congress to lease land on a five (5) year basis. What thoughtlessness and lack of planning went into this request is unknown. It was a definite lack of planning and thought for the Trust land was surrounded by improved non-Indian land. If *any* inquiry had been made as to whether any substantial improvement would or could be practical for residential or commercial purposes on a five (5) year basis, without option, any person with normal intelligence would have answered in the negative. Yet the Interior Department proudly declared this is progress, but nevertheless continued its practice of granting thirty (30) day permits thus encouraging and increasing the slum area theretofore developed by the Bureau on Section 14 in the heart of the City of Palm Springs.

By this proud act of allowing five (3) year leases, the Interior Department gave birth to other evils which later became a problem for itself, the Indians, and all other persons connected with Indian lands. One of these evils was the so-called "outside agreements." Who conceived them is unknown but the result of them is known. The Interior Department and the Bureau can explain them more readily than the presenter of this explanation, for the Interior Department, through its Probate Section approved such "outside agreements" but later withdrew its approval.

Because of the schedule and method used by the Interior Department to allot the forty-seven (47) acres, gross inequities occurred. Again, at a great cost for the individual Indian, it was necessary for the Courts in the case of the *United States vs Pierce, 235 F 2d 885*, to declare the Bureau had been unequitable and mandated the Interior Department to equalize the allotments, not on an acreage basis but on a dollar basis. The Interior Department did not know how to so equalize and was incapable of following the mandate or desired that someone else carry the burden for eventually, and in 1959, Congress passed the Equalization Act.

Having discovered belatedly the five (5) year leasing plan was completely ineffectual, the Interior Department blundered again. It proposed to Congress that authorization be granted to lease the Indian lands in the Palm Springs area for twenty-five (25) years with an option to renew for twenty-five (25) years. The Interior Department, through the Bureau, then promulgated a policy that the leases could not be given on a twenty-five (25) year basis with rights, rents and privileges consistent with the twenty-five (25) years, but the leases had to be re-negotiated as to rent each five (5) years. Commercially and practically, this was not feasible for anyone placing improvements on the leased land could be displaced at the end of any five (5) year period by the Interior Department demanding too high lease rental. Again the plan of a twenty-five (25) year lease with an Option of twenty-five (25) years went to naught by the lack of due study or any study and consideration by the Interior Department. By this time some officials should have understood that 3,000 miles away from an active real estate area is too far to know the commercial pulse of the area. Again, the Indians

suffered. The Interior Department could not explain it to them for had it done so it would have committed the unforgiveable bureaucratic sin of confessing it did not know what to do or how to handle the Indian land Problem in Palm Springs.

Under the twenty-five (25) year lease with Option of twenty-five (25) years, the Interior Department was faced with another practical problem which had not been known to it or evaluated by it when it obtained the passage of the twenty-five (25) Year Lease Act in 1955. To develop land costs money. Large tracts are developed by large sums of money. Most developers do not have the large sums, accordingly they borrow the money from financial institutions. One of the laws imposed upon many financial institutions prior to 1955 and up until 1959 was a provision that a leasehold was not bankable unless there was a full fifty (50) year unexpired term of the lease. The twenty-five (25) year lease with an Option of twenty-five (25) years did not qualify on three grounds:

1. The day after the lease was executed there was not a full unexpired fifty (50) year term.
2. The option would have to be exercised the moment the lease was executed in order to have a full fifty (50) year period. And, looking at it practically,
3. The reason for giving an option is to give the Lessee an opportunity during the basic period to know whether he desired to exercise the option.

The Interior Department, not having studied matters and having always to learn the hard way, again had to acknowledge another grave error which again delayed the Indian from receiving his just due from his allotted land.

At the same time during the 1950's the Interior Department was beset by another problem. Not knowing what to do or how to cope with the land problem in Palm Springs, the Secretary appointed a committee of business men from throughout the United States to study and make recommendations to him. This committee's report became known as the "Odlum Report". It was and is not a secret or confidential document. The recommendations made by that Committee are available but no provision or recommendation was ever carried to fruition.

A Joint Resolution of Congress adopted in the early 1950's required the Secretary of Interior to present plans to Congress to terminate the Indian Land Trust in California, Arizona and other States. Thereafter the Secretary proposed a Bill to create a corporation, transfer the Trust Title of the land to the corporation, secure the tax exemption and preserve the management in the Secretary and the Indian's hands. This Bill died for it was so ineptly drawn it could never have been given statutory life. It did however provide for the Conservatorship Program and it was recommended by both the Bureau and the Tribal Council.

During this same period of uncertainty, confusion, ineptitude and inactivity on the Indian land, the Interior Department, through an emissary of the Bureau, Mr. James Low, made another approach to try to relieve itself of its responsibilities. The Emissary in 1956 had a series of meetings with the Superior Judge of this County in Indio, California. The Emissary refused the idea that the Court should handle the Guardians of the Estates in the usual and formal manner and suggested that there should be a complete involvement by the Guardians of Estates because the Bureau personnel in neither temperament, training or policy could be of the proper aid in proper development of Indian land. The title was to remain in Trust with the Federal Government and all transactions involving the title would have to be processed through the Bureau and Interior Department. No such involved, complex or concentrated and unique problem had ever been known to be taken by a Court in California. After a few weeks Petitions to have Guardians appointed were filed in the Court. All of this was done without apparent Congressional approval. From that beginning came the program, instigated and fostered by the Interior Department, the task of trying to make Congressional Enactments, laws, Interior Department Regulations, Rules. Policies operate with the California laws, and Judicial limitations and operate with the Tribal customs and practices with the Indians. Some of the difficulties encountered are clearly and distinctly outlined in the transcript of a meeting held in February 1958 with many persons present, including Mr. H. Rex Lee representing the Commissioner of the Bureau of Indian Affairs, the Area Director, the Local Agent, representatives from the Phoenix office of the Bureau. A copy of that transcript is offered as an Exhibit at this time.

Congress formalized the Guardianship and Conservatorship program by a paragraph inserted in the 1959 Equalization Act. The Secretary of Interior then had to determine who among the adults was subject to artful and designing

persons and file or obtain the filing of Petitions of Conservatorships on them and Petitions for Guardians for all minors. Apparently he made such a determination by having the then Director, R. W. Jackson interview each of the adult Indians to determine if they were competent. If as a result of that conference it was determined that they were not competent the Indian was requested to file a Petition for the appointment of a Conservator and if he did not do so then the Bureau would initiate such proceedings. The proceedings were a condition of precedent to the Indian receiving his Equalization Allotment. An example of a form letter sent to the Indians at that time is the one sent to Mr. Anthony J. Andreas, Jr., a copy of which I now offer in evidence.

Since the title to the land was in Trust because the Indians were incompetent, it was and is not understandable how an Indian determined to be competent and not subject to artful and designing persons and not in need of a Conservator, still has his allotment in Trust for protection. Protection against what, since the Secretary has found him to be competent?

By the Congressional Equalization Bill of 1959, Congress created the Guardianships and Conservatorships as previously stated. It was the obvious intent of Congress that the mere creation of a Guardianship was not intended but that funds from the allotted lands should flow into the Guardianship in order to support, maintain, and otherwise care for the Ward, or in the case of a Conservatorship, the Conservatee. If this was not the intention of Congress what good would be accomplished by the creation of a dry guardianship of an estate? Before the 1959 Equalization Act, the Secretary had authorized the turning over of rent money to the Guardians and Conservators. However, after Mr. Cox and his "Task Force" arrived the Secretary dried up the Guardianships and Conservatorships. These Guardians and Conservators have Court Orders to pay sums of money to the Ward or Conservatee and make payments upon obligations. They must obey the Court Orders by using what money or assets they may have, even using capital. Thus, by obeying, which they must, the Court Orders and not receiving any further funds the Estates will be exhausted and several have been exhausted of funds.

From 1956, to and including 1967, there have been the following agents in the Palm Springs Bureau office: Mr. Mitchell, Mr. German, Mr. Jackson, Mr. Lewis, Mr. Harris, Mr. Hand and Mr. Jenkins.

With each new agent a new policy or procedure or attitude was introduced. There was no consistency. Seven agents in eleven (11) years caused the constant readjustment of thinking, procedures and policies which was confusing and upsetting to all concerned with Indian land.

Turning now to the so-called "Report" prepared by Mr. Cox, it is a real tragedy that in this day and age when Federal Funds are being looked to for the support of a war effort, the creation and continuance of a war on poverty, slum clearance, education and other fields of Federal activity, that so great amount of money as has been spent in preparing this Report should result in nothing more than the mis-statements, conclusions and inaccuracies upon which this Report is based.

One of the oldest, least admired, but effective tactic which man has used since communal society began is that of asserting an offense when he is in an indefensible position or a weak one. Since we have read so much and heard so much about the attack upon the Bureau of Indian Affairs, in its operations throughout the United States, it is obvious that the Bureau has found itself without a defensible position or at best a weak one. It is equally clear that the Bureau could use the offensive tactic with impunity because of its position in the Government and anything said by or done by anyone within the Bureau carries with it a legal immunity. Thus positioned, Robert Cox, head of the Palm Springs Task Force, could, with immunity, say or do anything against anyone or any institution without regard to the truth or falsity of his statement or conduct. He could and has tried to do this regarding the lands of the Agua Calientes in Palm Springs. His report dated March, 1968 and his conduct will be outlined as best it can be done.

The Report took ten (10) months in the making. It is the result of the efforts of attorneys, auditors, investigators and other general Governmental employees. The letter to your Committee Chairman dated April 2, 1968 from the Secretary of the Interior is tantamount to an indictment of the entire Conservatorship program and the Equalization Act of 1959 and of every individual mentioned therein, however, the validity of that indictment must stand or fall upon the integrity of the Report which is the basis of the forwarding letter. We must, therefore, look to the Report in detail in order to quash the indictment.

The forwarding letter of the Report of investigation signed by Robert Cox and Barry Berkson gives a clue to that which follows. In one of the greatest misstatements of the decade these gentlemen state:

"Due to the volume of the material reviewed and information received, the Exhibit or Exhibits used in support of a given finding may not necessarily be exhausted."

Not only are the Exhibits and Schedules not exhaustive, they are inaccurate, misleading, and in some instances, as will be pointed out later, libelous, were it not for the immunity granted to Mr. Cox. The Report itself, in the section headed "Background", sets forth the inability of the Bureau to follow the direction of Congress as set forth in the Equalization Act.

After initiating the Conservatorship and Guardianship Program in the California Courts the Bureau has abandoned its responsibilities and has left the appointment of the Conservators and Guardians to the Courts. (last sentence, page 6).

In a letter dated September 17, 1963 a copy of which is now handed to you as a next Exhibit, the policy of the Bureau in regard to the establishment of Conservatorships was set forth. As pointed out in the Report of complaints to the Conservatorship commenced almost as soon as the Equalization Act had been adopted. In a mis-classification of the nature of the investigation, defined by Messrs. Cox and Berkson as "truncated", the Department of Interior, at the instigation of Congress, submitted a report on July 9, 1963, which was contained in Exhibit 2 to the Report of March, 1968 wherein the nature of the investigation was certainly not defined as "truncated". Mr. John A. Carver, Jr., then Assistant Secretary of the Interior states:

"In this interchange of correspondence we agree that in making use of existing administrative facilities offered by the California Courts, we have the responsibility of ascertaining that the fees and other expenses charged against Indian Estates were not excessive or unreasonable. To that end, representatives of the Department were instructed to conduct the necessary studies which would enable us to make an enlightened review of the matters outlined as items 4, 6, 7, 8 and 9 of your letter of July 5th and to determine whether there is occurring any waste or dissipation of the Indian Trust Estates. We now have had an opportunity to complete our study. . . ."

At that time and following the "enlightened" review of matters the Department of the Interior specifically found "Although just by looking at the bare record, there may be a number of instances where fees appear to be high, yet after a close analysis of the services in fact rendered, it cannot be said that they are unjustifiably so. The services the fiduciaries and their attorneys are called upon to perform, are, on the whole, far from routine. They involve the exercise of land development, land management skills, the exercise of sound judgment in advising on problems arising from the operation of business enterprises, the prudent handling of funds for persons unaccustomed to incomes of the size they have suddenly begun to enjoy, the consumption of endless hours attending meetings of public and semi-public bodies, and, in many cases, almost daily consultations with beneficiaries and members of their families. Intricate legal problems are oftentimes involved.

"One important difference present in these proceedings but absent in the ordinary non-Indian Estate proceeding, is that more often than not the Guardian or Conservator of the Indian Estate finds himself acting unofficially in the capacity of a personal Guardian, that he may be called upon anytime of the day or night to assist the ward in resolving personal difficulties. These extra services have involved, among others, such matters as traffic and criminal law violations, marriage annulments, charges of breach of peace, finding foster homes and providing for the future welfare of minor children neglected or even abandoned by parents who are under Conservatorship, school re-instatements, seeking proper occupational training facilities for wards, providing psychiatric care for wards, and involvements with the Selective Service. None of these responsibilities is a part of the management of Trust property and yet innumerable hours of the Guardians or Conservator's time is spent on such matters."

The report then continues: "Finally, the fees in Indian Conservatorships and Guardianships are found to be generally commensurate with the fees allowed in Non-Indian cases involving comparable values."

"From all of this, it is our conclusion that a charge that the fees are unreasonable or excessive cannot be supported."

The report of March, 1968 then continues and refers to the appointment of a "Resources Trust Officer" in the Palm Springs office, in 1965, to work informally with the Court in its administration of the program. This Resources Trust Officer was the same Robert Cox who authored the report of 1968. This same Trust Officer was one who while attending conferences regarding the placement of some Indian children in foster homes, upon question put to him as a solution, stated he had none and did not believe he or the Bureau should enter in this affair.

This same Mr. Cox reported in 1965 that approximately 37% of ordinary income was consumed by fees and other administrative expenses. Why Mr. Cox arbitrarily selected the ordinary income as a yard-stick against which to measure fees when the Assistant Secretary of the Interior had in fact two years earlier described the services upon which those fees were based as totally inconsistent with those ordinarily performed by fiduciaries, is unknown to me or to anyone, other than Mr. Cox apparently. Instead of suggesting to the complaining Indians that the services being performed for them by their fiduciaries were far afield from those normally attendant upon a fiduciary, the Bureau took the attitude of placating the complaints and protecting them from the realities of their everyday life and the realities of existence in this society around them, all to the detriment of the fiduciaries who have unstintingly devoted their time and service to the betterment of the Agua Calientes and to the detriment of the Agua Calientes themselves.

Mr. Cox, in order to enhance the position maintained by him makes reference in his Exhibit 3 to a letter from Mr. Homer Jenkins then Director of the Palm Springs Office of the Bureau of Indian Affairs. He neglects to state that Mr. Hollowell was specifically requested by the wards or the parents of the wards and he neglects to state that the objection to the appointment was based solely upon the fact that Mr. Hollowell was in a fiduciary capacity for other Indian Estates.

This information is set forth in a letter from Mr. Jenkins under date of June 5, 1967, a copy of which is now offered as our next Exhibit. The report of March, 1968 paraphrases a letter from Judge Brown to Mr. Jenkins under date of April 11, 1967 and while including that letter in his report neglects to state that Judge Brown invited Mr. Jenkins and the Bureau or whatever other Governmental Agency was involved to formally appear in the Indian Proceedings. The formal intervention mentioned by Judge Brown refers to the fact that under California law whenever anyone has an interest in an Estate which is active in Courts, he may file a Request for Special Notice after which the person receives copies of all Petitions and papers filed. As indicated in Judge Brown's letter, the Bureau had therefor so been informed. In many Indian Estates the Bureau chose not to formally intervene and file objections, but as stated by Judge Brown took the opportunity of writing to the Judge directly, without notifying the person involved, setting forth objections to various transactions then going on before the Court. As indicated by the letter, in some instances the Judge followed the recommendations and objections of the Bureau. The only purpose of Judge Brown's letter, as is set forth therein, is to notify the Bureau that in the future had they had any objections they would have to voice them formally and thus let the persons to whom objections were being voiced have their day in Court. Although requested to appear in Court and voice its objections, if any, to any proceedings involving Indian Estates, the Bureau refused to do so stating that only the Justice Department could appear or give a consent to appear. Apparently this was true although at least one of the agents in Palm Springs was an attorney in the Area Office of the Bureau was a Regional Solicitor. \*

Based upon this apparently intentional mis-interpretation of Judge Brown's letter, the Report boosts itself by its own boot straps by including as Exhibits 5 through 9 a continuation of this mis-interpretation.

It is interesting to note that the complaints received by the Commissioner of Indian Affairs which precipitated the sending of Mr. Cox to Palm Springs in 1965 are fifteen (15) in number and not one of them relate to excessive charges by Conservators, Guardians or their attorneys but for the most part constitute

\*It is interesting to note that this alleged conflict of interest in Mr. Hollowell exists because he represents other Indians. The Bureau would have you solve the possibility of conflict of interest by having the Bureau, representing the entire Tribal Membership assuming the responsibility of representing each one of them individually and without in any way acting in derogation of the rights or privileges of any of the other members of the Tribe while acting for any given one.

complaints against the Bureau of Indian Affairs and the enactment of Public Law 86-339, Section 4.

Turning now to the so-called "Findings of Task Force" I would like to leave the dollar figures to the end of this testimony and turn to the remaining alleged Findings.

Under Paragraph B of the Findings the Cox Report of 1968 suggests:

That the amount of fees awarded to Judge Eugene E. Therieau in seven (7) years is excessive as it infers, were the fees awarded to Mr. Hollowell during the term of his service as attorney. These two individuals represented approximately 33% of the total estates involved and were awarded approximately the same percentage of fees.

By the inclusion of this separate heading for principal recipients apparently it is inferred that something is wrong. What, I cannot imagine.

It is interesting to note, however, that of the 36 Audits included by Mr. Cox in schedule 5 to the Report, none of the estates for which Mr. Hollowell is fiduciary are included for the period of his stewardship. Even though each of these estates has been audited.

It would appear then, that Mr. Cox in including 36 estates did so rather selectively for had he wanted to include therein the total estates audited, the 43 that he refers to in Paragraph 1 on page 9, that the 7 estates handled by Mr. Hollowell would have been given a clean bill of health.

An Ex-Parte Order, used by way of example in the Report, defines an Order signed by a Judge, without Notice or Hearing, generally in Chambers. The classification of all Ex-Parte Orders as being the same is like comparing Niagara Falls to Tahquitz Falls. They are both water falls. There the similarity stops.

Some securities are volatile in their selling price and the Ex-Parte Order authorizing the sale thereof must be obtained immediately in order to protect the Estate from suffering any severe financial loss. Other stocks are more stable and fluctuate slightly, therefore, the obtaining of an Ex-Parte Order can be done at leisure. In the former instance the obtaining of an Ex-Parte Order necessitates the cessation of all other work to prepare the necessary papers, delivering the proposed Order to the Bureau and obtaining its approval and the signature of the Judge on the Order sometimes within a matter of hours, whereas other Ex-Parte Orders can be done in the usual course of business and involve no interruption of normal office practice.

Not only are the exigencies of each particular situation to be taken into account, the experience of the attorney, the time it takes him to complete his task must also be taken into account. In the Report's last paragraph the Report's classification of the practice relating to the allowance of fiduciary and attorney fees as being wholly inadequate indicates that the authors of the Report are wholly unacquainted with the nature and value of professional and fiduciary services. They would relegate the fiduciary and the attorney to the status of an automaton, ignoring totally the individual's experience, intelligence, business acumen and every other quality the presence or absence of which determines the value of the services.

The Report criticizes the California Probate Code for the establishment of "reasonable" fees, and inaccurately compares such reasonable fees with the fees allowed in decedent's estates. In the event of extra-ordinary service performed in decedent's estates those performing the services are, too, allowed reasonable fees for extra-ordinary services. Again the Report mis-quotes applicable facts and law.

The practice of allowing reasonable fees for extra-ordinary services is followed uniformly throughout the United States. Were the services to be performed by an automaton or by a machine then the establishment of a uniform fee regardless of importance of the work performed would be possible.

Human endeavor being individual in nature and as differing from one case to the next as they are, the suggestion of the Report is totally impractical.

On Page 14 of the Report the authors suggest that consulting with Wards or Conservatees should not be classified as "extra-ordinary". Your attention is drawn to the language used by the Assistant Secretary of the Interior Carver when he stated: "The services the fiduciaries and their attorneys are called upon to perform are, on the whole, far from routine. They involve . . . and in many cases, almost daily consultations with beneficiaries and members of their families." Naturally the Conservators and attorneys do not uniformly treat consultation with their client as ordinary or extra-ordinary. The classification would naturally depend upon the applicable facts.

The Report alleges that fees have been allowed to attorneys and fiduciaries based upon fees normally charged by licensed real estate brokers. Such is not the case. Again the Report mis-quotes in para-phrasing an Exhibit. (See Exhibit 11.)

The letter referred to states that if the attorney is the "catalyst" in a real estate lease he should clearly reveal in writing his position to the Bureau and the Court. The award will not be on a basis of dollars per hour, but according to a determination of value and worth to the Estate made by the Court but never exceeding the schedule for realtors. In other words, the Court has stated that it would determine the value of the services by the attorney but never would the attorney receive more money than a real estate broker would have had the real estate broker been the catalyst. This indicates that the estate will never be charged more for services by an attorney than it would have been charged had the attorney called in the services of a real estate broker and allowed him to put together any transaction.

On this question, however, of determination of fees in accordance with schedules, the Bureau itself has promulgated a Directive wherein fees are to be determined by income which is the same standard followed by real estate brokers, but the fees to be recognized by the Bureau were less than those charged by realtors.

This Directive is in the form of a letter dated Sept. 9, 1966, a copy of which is offered herewith.

While the Report criticizes the insertion of the practices of the market-place into fiduciary relationships, it is apparent that such is not the case in Court administered estates, yet such is the case when the Bureau's determination of value of services is involved.

On the question of duplication of services, the Report criticizes the fact that a layman, the fiduciary, attends business meetings for which he charges fees. At least the Report criticizes this conduct when the layman asks to be represented in business meetings by his attorney. Apparently the authors of the report feel that every layman should be well enough versed in legal matters to be able to negotiate on all forms of legal problems without the effective assistance of counsel, or if he needs effective assistance of counsel, either he or the attorney should go un-recompensed for the services performed by them.

The Report implies that the layman fiduciary and the attorney duplicate services. Such obviously is not the case. It is the universal, commercial practice throughout the United States for businessmen to be represented at business councils and conferences by their attorney or with their attorney.

In several instances where the attorney has been himself qualified to act as business advisor he has been appointed as Fiduciary and serves as his own attorney. Such practice has resulted in a savings to the Estate, not only in money but in time. Such practice obviously cannot be followed universally because not all attorneys are qualified businessmen.

The authors of the Report again exhibit their ignorance of legal services by classifying the obtaining of Ex-Parte Orders as being universally "purely routine".

The authors criticize alleged extra-ordinary fees by attorneys for services normally performable by a fiduciary but fail to give any assistance in which this situation has occurred.

If an attorney is representing three clients each of whom are involved in a transaction, the attorney will represent each of the three clients to the best of his ability. For each of the three clients he must perform some services. If the three clients happen to be estates and the transaction necessitates the obtaining of a Court Order for the completion of the transaction the attorney must perform services in connection with the obtaining of Court Orders for each of the three estates.

The example used in the Report, i.e. Exhibit 15, is a classic example. Each of the four estates referred to therein necessitated work by the fiduciary and the attorney. The time devoted to all of the problems involved was divided by the number of estates involved and each estate was charged for its aliquot proportion of the total services. There was no duplication of fees.

There does in fact appear to be a duplication of functions of the Bureau and of the Superior Court for each must approve a lease or a sale of land by an estate.

When the Superior Court functions as the reviewing authority the approval or disapproval is forth-coming within a matter of weeks. When the Bureau is



the reviewing authority the delay is sometimes as much as nine months. Examples of this are: PSL 16. The original lease was submitted on May 19, 1959 for Bureau approval and was finally approved on September 11, 1950. The first Supplement to that lease was submitted July 11, 1960 and approved December 29, 1960. The second Supplement was submitted February 11, 1963 and was finally approved December 17th of the same year.

PSL 104 was submitted for approval on April 21, 1967 and finally approved on September 7th of that year.

PSL 105 was submitted on \_\_\_\_\_ and has not yet been returned, approved or dis-approved by the Bureau.

On the question of inadequacy of records the conclusions of the Report are just that. The Audit Reports themselves would reflect whether or not any of the estates had inadequate records.

These Audit Reports were not available to me, therefore, I can make no specific comment relative to the conclusions made by the Report except that in the 25 cases where there were allegedly inadequate supporting documentation, 13 of these estates involved deceased or resigned fiduciaries whose records over the past years have probably been handled by his widow, his executor, his successor fiduciary, the attorney for his executor and may very well have been intentionally destroyed by the fiduciary after holding the same for years and after having had his accounts approved.

It is common business and fiduciary practice to submit an Accounting based upon all of the Receipts and Expenditures made during the preceding accounting period. Once the Accounting has been submitted to the Court for its approval and to the Bureau, the records substantiating that Accounting are generally held for a period of three or four years and then destroyed. To do otherwise would necessitate the hiring of vast storage areas.

Of those cases in which the assets were allegedly overstated or under-stated, it was the practice of the Bureau in conducting these Audits to take an asset at its original cost and to continue it throughout all subsequent accounting periods at its original cost, whereas in practice, assets in some cases depreciate and others appreciate and the depreciation and appreciation are reflected in subsequent accountings. Accordingly, if an automobile was originally purchased for \$5,000.00 the fifth Accounting thereafter would indicate its depreciated value whereas the Bureau's Auditor maintains that it should be listed at \$5,000.00.

Other conclusions set forth under this heading cannot be commented upon other than the fact that three of the cases involving cash shortages involved an Indian Conservator whose shortages were brought to the attention of the Court by her attorney and through the Conservatorship Program reimbursed the Estate of the children involved.

Schedule 5 appended to the Report not only is a composite of conclusions it is factually incorrect because the Audits were for each estate by individual fiduciaries.

For example, Numbers 13 and 14 in Schedule 5 each had two fiduciaries die in office before the present fiduciary assumed his position of trust. The records of the current fiduciary were not only adequate but were commended, however. Schedule 5 indicates that the records were inadequate, supporting documentation was missing and there was a cash overage, none of which comments apply to the present fiduciary.

An examination by this Committee of each Audit is the only way in which these individual comments can be refuted.

*Development of Indian Estates.* No comment is required on the land status portion of this Report.

In reference to the impediments to development there should be additionally set forth the fact that Riverside County, as other Counties charge a Possessory Interest Tax which in Indian Leases is always passed on to the Lessee.

Additionally the fact that the minimum rental of 8% of the appraised valuation plus a rental bond plus payment of Possessory Interest Taxes and all taxes assessed against the property plus the deposit of one year's rent in advance, are factors which are non-negotiable concerning Indian Leases. In these days of tight money most landlords are willing to make concessions in order to obtain tenants. Such concessions are refused by the Bureau whose approach to the development of Indian Land is inflexible and impractical.

Many Indians insist that all costs of leasing their property be borne by the Lessee and despite the conclusion of the Report that this necessarily involves

a conflict of interest, such is not the case as will be obvious later in my testimony.

*Decline in estate values:* The statistics set forth therein are totally meaningless unless the financial condition and the need of each Indian, the market conditions prevailing at the time of the sale, the general financial conditions which prevail at the time of each particular transaction are taken into account. It is and was the Fiduciary's responsibility to see that the estate had enough funds with which to support the ward. A number of the sales of Trust Land occurred the beginning of this program, for the very simple reason that the Ward had no money upon which to live and the only means by which he could obtain money was the selling of his property. When property was sold the proceeds thereof were generally invested with the income therefrom providing the means of support for the Ward.

*Concerning the involvement of individuals.* In a Report of this nature it is apparently the intent of the authors to vilify individuals in order to protect the inadequacies, improprieties and lack of concern on behalf of the Bureau.

The conclusion set forth that Judge McCabe did not set precedents and guide-lines is not only a conclusion it is at complete variance with the facts. \*See note.

In 1961 after the Guardian and Conservatorship program had been in effect for some short period of time still other problems raised themselves and on November 3rd the Judge was instrumental in holding a meeting of the Guardians and Conservators and other interested persons in which such things as monthly allowances, rights-of-way, real estate commission, no fixed fee, investment of money, stabilization of the economy, obtaining utilities on Section 14, zoning, flood control problems, insurance and organization of a co-ordinated body to represent the Indians, were discussed.

How the Report concludes that Judge McCabe did not set precedents and guide-lines is something only Mr. Cox can answer and I doubt that he can then with a straight face. One man sitting on the Superior Court in Indio, California cannot control the Federal Government.

Additionally you have before you as Exhibit T in response to the Report by the Conservators and Guardians, a letter dated July 21, 1965 in which Judge McCabe invited the Bureau of Indian Affairs to investigate the possibilities of establishing a course in common commercial practices for the benefit of the Members of this Tribe. You have also included in that Exhibit the Bureau's response that such an affirmative step for the betterment of the members of this Tribe by the Bureau is beyond their ability or interest.

The Bureau's policy now and in the past has been to submit a Will drawn by an Indian in Triplicate for approval by the Phoenix Area Office. If the Area Office approves the Will the copies of the Will are then filed with the local Office of the Bureau and with the Sacramento Office. In the ten instances in which attorney James Hollowell prepared the Will for the Indian, not only were the Wills forwarded to Phoenix for their approval but Secretary of the Interior Udall has been advised of this fact and has been supplied with copies of the letters forwarding the Wills for their approval.

The remaining comments on Judge McCabe are conclusions drawn by the authors of the Report, and this Committee as well as I, can draw its own conclusion by an examination of the documentation purporting to support the Report.

\*Beginning as early as 1956 or earlier, Judge McCabe became concerned, aware and interested with the problems confronting the Agua Caliente Indians. He had meeting upon meeting with members of the Tribal Council, members of the local Bureau, members of the area office. He actively participated in the formulation of the legislation which is now affecting the lives of not only this Tribe but all of Palm Springs. In 1958 after the Guardianship Program had been commenced as is reflected in the first Exhibit offered by me today, Judge McCabe received a letter from the Commissioner of Indian Affairs, Mr. Emmons, stating that the Bureau intended to recognize the action of the Guardians in negotiating leases and in collecting the rentals and stating that the Bureau intended to approve no lease unless they had been considered by the Fiduciary.

After the Guardianship Program had been commenced certain problems arose and Judge McCabe invited and received the attendance of Mr. Rex Lee, Mr. Robert Cole of the Area Credit Office, Mr. Leonard Hill, the Area Director from Sacramento, Mr. Charles German of the Bureau office in Palm Springs, representatives of Title Companies, Banks and Guardians and Conservators at a general conference. At this time Judge McCabe brought to the attention of these Gentlemen certain problems facing the members of the Tribe.

Some of the Wards have no income. Some of the Wards had parents who had income. The possibility of obtaining financing to produce income on allotments. The possibility of moving the Bureau's Palm Springs Office from land owned by white men to land owned by the Tribe. The possibility of obtaining a Policy of Title Insurance on property legal title to which was in the Federal Government. These are only some of the few items mentioned and brought to the attention of the Government by the Judge.

In reference to the charges levelled against Judge Merrill Brown, these, I feel are adequately covered by Exhibits J. K. L and U. V. attached to the response made by the Conservators and heretofore provided to Congressman Tunney.

With reference to the first charge against Judge Brown, however, the report is silent as to the fact that when the negotiations first started Judge Brown called Mr. Jenkins head of the local office of the Bureau and advised Mr. Jenkins of his ownership of the property and requested the appointment of a Bureau of Indian Affairs appraiser. The notations of the conference between the appraiser and Judge Brown, which notations were made by the appraiser, are contained in a memorandum signed by Cyril B. Swanson appraiser, Sacramento area office in which he acknowledges that Judge Brown disclosed ownership. The fact that the conservator for the Indian, the Bureau, and the Bureau's appraiser knew that Judge Brown owned the land certainly dispells any inference contained in the Report that something improper was being attempted. A reading of the Petition itself indicates that the purported statement by Mr. Levy could not be an accurate report of the conversation, because the Petition merely requested authorization to purchase but in no way binds the Conservatorship to proceed with the purchase. Mr. Levy has been involved in real estate sales for at least fifteen years and well knows that no one is obligated to conclude the purchase until they have affixed their name to a contract.

The second alleged charge against Judge Brown is amply covered in Exhibit L to the reply of the Association of Conservators and Guardians.

The third charge infers that because the Judge has been reversed on Appeal that the Judge is suspect of foul play. If such were the case virtually every Judge of every Court of record in the United States would at one time or another have charges of misconduct levelled at him.

Concerning the charges against attorneys, one very significant charge that the Report seems to reiterate is that of conflict of interest in a situation where the attorney representing the Conservator presents Petitions to the Court for Ex-parte Orders and receives payment therefor from the Lessee or a Public Utility for obtaining the Ex-Parte Order. This charge has been levelled onerous than the attorney for a wife in a divorce action receiving fees for his services, by Order of Court, from the husband, which practice is specifically called for under appropriate circumstances by California law. It certainly can't be argued that the wife's attorney has a conflict of interest.

Some of the specific charges against certain individuals must be answered, although briefly, because of their far reaching and slanderous nature and effect.

Mr. Hollowell has been accused of charging both Mr. Fey and the Patencio estate for the same work. This accusation is made on page 23 and refers to Exhibits 23 and 24 of the Report as authority for the accusation. The accusation is a lie.

Mr. Hollowell has adequately answered that charge.

What is unconceivable to me is that this charge of double payment should be contained in the Final Report when, following its inclusion in the Interim Report true facts were brought to the personal attention of Secretary Udall.

The other charges allegedly made against Mr. Hollowell were adequately answered by him, and the time of this Committee will not be consumed in refuting allegations which the Task Force in their year of investigation, could find no substantiation for by way of documentation.

The recitation concerning the Association of Conservators and Guardians and Allottees is factual except for the concluding half-paragraph on Page 34 wherein the Task Force assumes, with no substantiation, the purpose for which the assessment was to have been used.

The criticisms against Eugene E. Therieau can simply be answered by stating that the first criticism is now in the hands of the Courts and the second criticism is based upon the conclusions of the Task Force, which conclusions have already been amply demonstrated to be without foundation in most instances. It is indeed noteworthy that a few names appear repeatedly in connection with transactions involving Indian property. As should be readily apparent to all concerned Indian property involves specialty of the law. Any specialty in the law attracts a few people who are qualified to practice it.

The alleged mis-use of Conservatorship proceedings are totally without merit.

The conclusion reached by the Task Force in connection with one incident is based upon a newspaper article and the conclusion reached in the other instance is based upon a false assumption of California law. It also mis-states the fact that it was only the Department's Amicus who objected. Mr. Segundo himself objected to the payment of fees to his wife's attorney.

We now come to the cause for the Report, the Indian dissatisfaction.

The first four objections mentioned in the Report are the direct result of the Bureau's abrogation of their responsibility.

In the 1950's the Secretary was directed to get out of the Indian business. In order to enhance his opportunity of doing this the Equalization Act was adopted. The Bureau since that time and until the present Task Force intrusion refused to take any active steps to carry out the mandate of Congress.

Obviously one of the most important steps which could have been taken, and should have been taken and which was well within the province of the Bureau, was the education of its Wards toward the proper handling of their estates. In connection with this Judge McCabe not only suggested an education program but virtually detailed the manner in which it could be established at little or no cost to the Bureau. The Bureau's response has already been noted where they suggested that the Sherman Institute was available but the Tribal Members of the Agua Caliente Band would not attend.

When Mr. Robert Cox first came to the desert in 1965, 1966, I am advised that he proposed a departmental educational program to which all adult members of the Tribe were invited. Due to lack of participation by the members of the Tribe the program was cancelled.

It is obvious that neither a businessman, an attorney nor a corporate fiduciary can undertake in each individual estate the training and education of the Ward, in commercial, legal or practical matters in sufficient depth to enable the Indian who had theretofore been inexperienced and impoverished, to properly handle a \$500,000.00 estate.

In the instances when the daily conferences which are required for such training were attempted the Bureau ultimately voiced strenuous objection to compensation for these services.

Therefore, it must be concluded that the education of the Indian Ward in commercial and legal matters cannot be effected through Conservatorship and Guardianship program, without cost to the Indian and thus the resultant objection from the Bureau.

As a matter of fact the Bureau has voiced objections in virtually every estate in which the attorney or the Fiduciary have spent time in attempting to educate the Indian claiming that this is non-income producing time and therefore is not recompensable. Such an argument was most recently voiced last week in the estates of Nancy and Clarice Bow.

As the standard of living of the respective Ward is raised and as he becomes assimilated in the society around him it is hoped that the normal educational processes afforded by the Palm Springs Unified School District and by the College of the Desert will enable these Wards to ultimately attain complete independence.

If any greater program of education is needed than as was suggested by Judge McCabe the present courses available can be implemented.

It is interesting to note that the original complaints of the Indians as heretofore offered by me, in no way express concern about excessive fees or exploitation. The Report prepared by Mr. Cox does, and this Report attributes to the Indians these complaints and I am sure that following the year of publication following the initial announcement of these changes some Indians may believe that these conditions do exist. However, let us look at the facts:

Turning now to the so-called Findings of Task Force contained in the Report commencing on Page 9 and more particularly the general statistics portion thereof, I concur in the dollar amounts quoted, the percentage amounts quoted and commend the Task Force for its ability to add figures accurately.

Other than as stated, however, the Findings of the Task Force bear no more relationship to the true financial, legal or commercial picture confronting the Indians, their fiduciaries and attorneys than does the fact that one candidate for President receives two-percent of the write-in vote in a State in which he was not running bears to the true picture of who is going to be nominated or elected to the office of President.

The initial arbitrary and unwarranted position of the Task Force is a comparison of fees to ordinary income.

Why ordinary income was chosen as a standard against which fees should be compared is unknown. The income of an Indian does not determine his legal or personal needs. It has some bearing unquestionably, however, when an Indian is charged with murder whether his income be \$50,000.00 a year or \$2,000.00 he still needs legal representation. The same is true when an Indian or any other person, has the same problems as those set forth in Assistant Secretary Carver's

letter of 1963. The individual needs the assistance, if he has money with which to pay for it he will be charged accordingly, if he does not have money with which to pay for it, he may not be charged, or the charges may be referred. Unfortunately, in the case of an Indian when the only money he has is income it is illegal for the payments to be deferred because without the approval of the Bureau of Indian Affairs future income cannot be encumbered for present services. In virtually every instance when the Bureau has been requested to permit payment of fees from future income the Bureau has refused to give this permission thus resulting in a present award of fees immediately payable which had the Bureau given consent would have been spread over a period of years.

The Bureau's attitude, therefore, has resulted in what is known as "front-loading". If a sixty-five (65) year lease is negotiated the fees attributal to that lease and the legal and other services attendant upon it would normally be payable out of income when, as and if it is received. The Bureau's refusal to permit this spreading of awarding of fees results in an Order for the immediate payment of fees which when compared to immediate income compares very unfavorably.

The Conservatorship Program is a Fiduciary one. A Fiduciary appointed under the laws of this State, or virtually any other State in the Union has the responsibility for managing the total assets of his Ward. This is true whether under the Conservatorship Program or under the Guardianship Program.

*See Probate Code, Sections 1500 and 1852 of the California Probate Code.*

An ordinary fee for a fiduciary is based upon the amount of assets for which the fiduciary is responsible during the Accounting Period in which the fees are awarded. If, for instance, an estate fiduciary is chargeable in one year with a \$100,000.00 estate and the next year that estate remains of the same size his fee for the succeeding year will be dependent upon the amount of money for which he is responsible, to-wit: \$100,000.00.

Based upon a public statement made by Secretary Udall on March 7th of this year the Audit covered by this Report averages eight (8) Accountings for each estate.

Looking then only to the funds upon which ordinary fees for fiduciaries are to be based, we find the following factual and monetary situations.

It is customary to base fiduciary fees of an ordinary nature on the total assets of the estate to be managed or developed during every Accounting Period. In order to arrive at accurate percentages for the eight Accounting periods now covered it is therefore necessary to take the total non-Trust estate of each Indian estate for every Accounting, add this sum and we arrive at the figure of \$35,747,486.94 being the total non-Trust estates administered by these fiduciaries over the entire period.

The total expenses, including attorney's fees, conservator's fees, guardian's fees, miscellaneous charges such as accounting fees, real estate broker's fees, fiduciary bonds and including extra-ordinary services of every kind and nature whatsoever, for the period of this fiduciary program has been \$1,018,660.93. The percentage of total expenses to total non-Trust estates is thus not 44% as suggested by the Report but is 5.20% for the entire period.

The fiduciaries of the Agua Caliente Band of Mission Indians are chargeable with the management and development of the Indian's Trust as well as non-Trust Estates. In a non-Indian Conservatorship or Guardianship the Ward would hold legal title to the real property but the fiduciary would be responsible for its management and control. The fiduciary would be compensated by way of ordinary fees, for the value of the estates thus held by the Ward. In these Indiana Conservatorships the United States Government holds title to the Trust property. The fiduciaries do not use the value of the Trust properties in computation of their ordinary fees but list as value of each parcel held by the Government but managed and developed by them at \$1.00 a parcel.

If the Indians had been treated on the same basis as non-Indians in these fiduciary matters of computation of ordinary fees, we would find that the total fees, not just ordinary fees, but all fees, would bear a relationship of not 44%, but .0653% of the total responsibility of the fiduciary.

This computation is supported by the figures already before this Committee on page 2 of the Reply of the Guardians and Conservator's Association, which Reply was forwarded to Congressman Tunney on April 17, 1968.

It is interesting to note in passing, that the dollar per parcel value listed by fiduciaries, rather than full market value, was a practice instituted by Judge

McCabe who was so severely vilified in the Report for not having established precedents beneficial to the Indians.

The one figure not set forth in either the Report or the Reply to the Report is that of \$35,747,486.94 representing the total non-Trust assets which were the responsibility of the fiduciaries over the entire period covered by the Report. This compilation I now offer in evidence. These compilations were prepared under my supervision by my secretary and reflect every financial transaction for every Indian estate from the beginning of this program through June 30th, 1967.

It is interesting to note that the total fees charged represent 5.20% of the total responsibility for non-trust estate and .0653% of total Trust estate for which the fiduciaries have been responsible. The fees, however, represent services far beyond those classified as ordinary.

Had the fiduciaries charged the full maximum percentage allowed by law for ordinary services for non-Trust assets they would have been entitled to three-quarters of one percent ( $\frac{3}{4}$ ths of 1%) thereof or \$2,655,035.88. It is quite obvious that instead of exploitation the members of the Agua Caliente Tribe have been treated more favorably than would the same number of people possessing the same number of assets who were non-Indians.

Also ignored by the Report of March, 1968 in "presenting the general statistics" relative to fees, is a standard adopted by the American Bar Association and the California Bar Association for the computation of reasonable fees by attorneys. Such things as amount and extent of responsibility by attorneys, services rendered, time consumed, benefit to the estate, uniqueness of problems, fees generally charged in the community, loss of other business, and financial ability of the client are totally ignored by the authors of this Report who limit their comments on reasonableness of fees by comparing the same to income.

The ridiculousness of this approach is readily seen by the fact that in 1967 the Agua Caliente Tribal Council in a publication entitled "All that Glitters is not Gold", published a statement appearing on the Bureau of Indian Affairs Palm Springs Office letterhead dated September 19, 1967 indicating that the total annual income to the members of the Tribe as of June 30, 1967 was the sum of \$1,018,660.93.

The Report of Mr. Cox states that the total income since the beginning of the Program from ordinary sources for all estates and not only those audited, is \$4,174,140.64. The Bureau's own figures indicate that approximately one-quarter of that amount was being earned annually as of June 30th, 1967. There is no reason to believe that the future income to the Indians will be any amount appreciably different from that enjoyed last year.

Assuming, arguendo, that comparison of fees to ordinary income is the proper approach, it would appear that since 25% of all of the income was enjoyed within the past fiscal year that the time for a fair analysis has not yet occurred.

By way of example, assume that a job applicant goes to an employment agency and is told that the total fee to be charged by the employment agency is one month's salary. A job is then found for the applicant. If the fees paid were compared to income from the job during the first month of the job, the fees paid would equal 100%. If the fees paid were compared to the total income at the end of the second month, they would equal 50% of total income. If the fees paid were compared to the total income at the end of the fifth year they would equal 1.66% of total income, *ad infinitum*.

It is apparent that the Task Force started out from a false premise that fees should be charged to income but not only that they should compute the costs to the total income to be earned during the life of the leases so that the true costs of the development of the Ward's property can be ascertained.

The alleged corrective actions being taken by the Task Force do not solve any problems but raise some.

On Page 46 it appears to be the recommendation of the Task Force that eight (8) additional estates be terminated, since the Task Force and the Bureau feel that the Indians are able to handle their own affairs. The question then arises, are they really able to handle all of their affairs or, as stated on Page 5 of the Report, are they to be classified as persons who might reasonably be expected to do a credible job of handling income, but not necessarily capable of managing the corpus. If these persons are of this category then, when will the Directive of Congress to terminate the Government's intervention in Indian Affairs be carried out?

Prior to the creation of the Task Force the Bureau of Indian Affairs had not formally participated in Court proceedings. It is false that for the first time was the Bureau enabled to participate only after the appointment of an Amicus. At all times during the Conservatorship Program the Bureau, because it was an interested party, could have received Special Notice and could have participated. The Bureau at all times refused.

Since their participation, the Government has virtually contributed nothing to the betterment of the situation.

If anything, because of the frequently fruitless grounds of objection, the activities of the Amicus have resulted in increased costs to the estates involved, and a complete discouragement of individuals and institutions from participation in Guardianship and Conservatorship programs involving Indian Estates.

While the control of Trust Funds by the Secretary made headlines in some newspapers, the Audit Reports indicate that such an action on his part was totally unnecessary.

If a change in fiduciary or attorney in any instance is desired, the complaining Ward need only Petition the Court for such a change and, providing that the substituted or replacement fiduciary is qualified, the change will undoubtedly occur, since, with no exceptions, there have been no contests by a fiduciary when his Ward has requested a change.

In the Segundo matter the objection came, not from the Conservatee, but from the then wife of Mr. Segundo, who objected to the competency of his proposed successor fiduciary.

Litigation now pending or to be commenced needs no comment since the final decision of the Courts will prevail.

The Association has expended no funds in an attempt to vindicate itself or its members. All funds have been directly for the benefit of the Indian in connection with the zoning matters heretofore mentioned or in connection with a review of the facts so that a true picture of the financial condition of the Tribe and the charges made against the individual estates could be brought to the attention of this Committee and of the members of the Tribe.

In conclusion I must disagree with the conclusion of the Task Force. In economic terms the Conservatorship Program has not been intolerably costly. It has been costly, but the product of the program has more than justified the costs and as the leases now in existence and which *may* come into existence season, the rateable cost to the Indian will be reduced proportionately.

The program has not been intolerably costly to the Indian in acumen terms.

Before the program commenced the vast majority of this Tribe were living on the economic edges of society. In some instances members were living in houses not equipped with running water, others were living in station wagons. In some instances members of the Tribe were classified as competent by the Bureau only to have fee patent given to them and have them sell it the following day for a fraction of its value.

Now, with the exception of some children who are living in foster homes, each member of the Tribe resides in a residence possessing at least minimal standards and some members of the Tribe reside in residences and areas equal to the finest within the City of Palm Springs.

In some instances real property has been developed by the fiduciary working with the Indian involved, thus enabling the Indian to find through first hand experience the problems attendant upon property development.

I offer this Committee for its study photographs of some of the improvements made during this Program by the fiduciaries.

The Bureau is not presently designed to scout tenants for the remaining 28,000 acres of undeveloped land. The Bureau is not now designed to provide direct educational courses to the members of this Tribe for the development of their commercial and business astuteness. The Bureau is not now planned to provide daily conferences with members of the Tribe who find themselves in personal, legal or economic difficulties. The Bureau is not now designed to provide the means by which leases and sales of Indian lands can be effectively and promptly concluded. The Bureau is not now designed nor is any Governmental Agency designed to effectively acquaint itself with economic variables within the City of Palm Springs and adjust its requirements from time to time to meet these variables, yet with the inception of the Task Force and the addition of Mr. Robert Cox, who has been appointed to the local Bureau as Resources Trust Officer and the addition of one attorney, it is proposed that these two men perform all of the above tasks, something that the Bureau has been incapable of

doing in all of the years since location of the Bureau in Palm Springs. Presumably these two men would add to the administrative staff of the local office and this would result practically in an increase in red tape, costs to the tax-payers, confusion and frustration to the Indian and not result in a solution in accordance with the Directive of Congress.

The situation which is now confronting all members of the Tribe and all Conservators, Fiduciaries, their attorneys, the Courts and the Bureau is one of utter chaos and confusion since the announcements by Secretary Udall that Mr. Cox's initial investigation in 1965 indicated wrong-doing and since the appointment of an Amicus to appear in cases, virtually every proceeding is contested, virtually every Guardian, Conservator or attorney has been vilified, the Indians have been beset by intrusion into their privacy, by fears that their Courts, their attorneys and fiduciaries are dishonest, the Courts have been harrassed, the Government has refused steadfastly to permit any of their employees to testify on any matter whatsoever although much of the alleged misconduct of the Court Officers are supposedly within the personal knowledge of those employees who are located in the Palm Springs area; responsible business men and corporate fiduciaries would have resigned months ago were it not for the fact that they would have been resigning under fire; few, if any, will continue to serve in their fiduciary capacity if the current state of affairs continues; the Secretary of the Interior by drying up the Indian funds and releasing income to those Conservators only in estates that the Secretary has not singled out for vilification, is an effective and complete thwarting of the intent of Congress since we have Guardians, Conservators and attorneys at this time who cannot be paid because their estates have no funds with which to pay them and this even in view of the fact that they have been Ordered paid and the Orders were based on Petitions, full knowledge of which were given to the Bureau before presentation to the Court. In other words, the Conservatorship Program as it now exists is, for all intents and purposes dead. No legislation that Congress can enact can revive the existing Conservatorship as long as the Secretary of Interior continues his unilateral efforts to destroy the system. Therefore, my conclusions and recommendations are given to you, not in an attempt to protect and promulgate the existing system because I believe this system to have been killed by the Secretary of Interior last year. Assuming, for the moment and perhaps I am incorrect in this assumption, that Congress still intends for the Bureau of Indian Affairs to get out of the Indian business, this mean that the Bureau must either get in or get out and if it is going to get out it must get out 100% even though such withdrawal may take a number of years, they can't let go of part of the responsibility, keep part of the responsibility and keep the Indian separated and isolated from assuming responsibility for his own property when he is qualified so to do.

History has indicated that the Bureau of Indian Affairs has been a total failure in helping the members of the local Tribe. The only concrete benefit the Bureau offers to the Tribe is that of holding title to real property so that local property taxes do not attach to the property and so that income derived from the property will not be taxable.

The solution of the problem boils down to that simple question: Are the Indians to be forever protected from the local and Federal taxes. If the answer to that question is Yes, then the Federal Government can solve the problem now facing it by continuing in perpetuity the Wardship of the Tribe. Establish an Area Director for the Area of Palm Springs. Eliminate the necessity for outside approval for his activities. Staff the local office with sufficient trained personnel to enable it to advise all members of the Tribe in every aspect of either personal, commercial or legal activity. Give the staff of the local office complete autonomy so that local, immediate problems may be dealt with and solved locally and immediately.

If it is not the intent of Congress to forever protect the members of this Tribe from payment of local and Federal taxes then I believe the problem can be solved as follows:

First, direct the Bureau of Indian Affairs either through its own attorney or through the office of the Solicitor to appear in all current Guardianship or Conservatorship proceedings. By so doing the Government will be bound by determinations made in the Hearings in which they have actively participated and thus will not be able to come back in five or ten years later and claim fraud as they are doing at the present time.



Thus in the Guardianship proceedings for all minors the minor will be protected by the Court, its Guardian and the Federal Government.

As the minor's attain age twenty-one, if they are determined to be competent, the Secretary of Interior should be directed to deliver fee patent to all of that Indian's property to the Indian. Thus terminating Federal Wardship over that Indian.

If the Indian is suspected by the Government of being not competent, the Guardian or a friend of the Indian can advise the Court, under existing State law, of the need for a Guardianship for that Indian. State law now provides that if a jury of twelve peers determines that the Indian (or non-Indian) is not competent, a Guardian can be appointed for the Indian. When a Guardian is appointed for an adult Indian, title to that property could remain in the Federal Government as now.

If the Bureau finds the Indian to be competent the Bureau can oppose any Guardianship and the Bureau should be directed to deliver fee title to the land to the adult Indian.

If such a program is followed, all Indians, as they attain majority and competency will receive fee title to their land and will put on an equal basis with non-Indians in the community in which they live.

If the Indian, after having received fee patent feels he is not capable of handling his property he may Petition the Superior Court for the appointment of a Conservator to help him protect himself from artful and designing persons.

By following the suggestions now made, the Government position will be made clear, they will not be able to say on the one hand that the Indian is incompetent therefore cannot receive his fee patent yet is competent and therefore should have no Conservator or Guardian to help him manage his estate.

By being made to face the realities of living in the United States of America in the year 1968 with a half million dollars worth of property, the Indians will quickly assimilate themselves into the society around them and yet be able to retain, through the retention of the Tribal Council and Tribal Lands all of the heritage of the Tribe.

An alternative suggestion to this is for the Government to award a fee patent to the Indian after the Indian's property has been leased for a period of years. The number of years to be sufficiently long to prove that the lease will be a continuing one and yet not so long as to continue the Government's intervention in the affairs of the Indian. If, for example, a lease has been in existence long enough for it to be producing the maximum rental available under that lease then the Indian will be assured of a steady income probably for the rest of his natural life and there is no reason whatsoever for the Government to continue the Wardship of that Indian. The properties of the Indian which are not leased could be deeded to competent Indians in accordance with the existing Directives of Congress at the end of twenty-five years from the date of allotment.

Nothing that I have said now indicates a desire or recommendation that the Trust status should be terminated *carte blanche* or that it should be terminated immediately. It would be disastrous not only to the Tribe to be confronted with the payment of local taxes and income taxes on 29,000 acres but it would also be disastrous to the entire desert community and such a solution is totally out of the question.

The Bill presently pending and suggested by Congressman Tunney is in my opinion no solution to the problem.

My only knowledge of the Bill is a synopsis of it which appeared in a local newspaper. The five points mentioned by the newspaper, and assuming these five points to be correct, are as follows:

1. The Secretary of Interior may request Guardians over the non-Trust estate of any minor Indian or for any adult Indian who is adjudged "in need of assistance in handling his affairs". By elimination from the Directive of Trust property that portion of the proposed Bill, in effect says that management, development of trust property shall, even in the case of a competent Indian remain in the Bureau of Indian Affairs. The Bureau is not now, nor has it ever been equipped to develop or manage the trust property on an economically feasible basis. Management and development could be accomplished, possibly, with sufficiently trained personnel, at an exceedingly high cost to the United States taxpayer.

2. States that the adult Indian shall not be denied due process of law. Neither the adult Indian nor any other person appearing before the State of California in relationship to Guardian or Conservator programs are denied due process of law,

3. By giving ultimate control of fees for management of Trust property to those Guardians who are entrusted with the management by the Secretary capable and competent business advisors would be subjecting themselves to the whim of the Secretary of Interior and I doubt that many persons of competency would be willing to submit to the arbitrary establishment of fees by the Secretary of Interior. Witness the chaotic state of affairs which has resulted since the Secretary's intervention in the current proceedings.

Point 4 requires an accounting by any Guardian and the return of any Trust property. The Secretary now has the right, by intervention in any Court proceeding to receive copies of any Accountings. By authorizing the Secretary to undertake Court action to require return of Indian property and not directing the Secretary to intervene in any Guardian proceedings, the legislation would promulgate the confusion that now reigns supreme. No act of a Conservator even if approved by Court after notification to the Secretary would ever become a final act. The Secretary could, by the proposed legislation, at any time, as much as fifty years later, move to set aside some Court approved transaction.

Point 5 allows the Secretary to use his discretion in suspending direct rental payments and to initiate Court action to recover funds used in an unauthorized manner. This is what the Secretary has unilaterally commenced to do. It solves none of the problems now in existence, it continues the uncertainty of the validity of any transaction and merely adds another reason to have competent fiduciaries refuse to engage in the business of assisting the Indians.

Mr. EDMONDSON. Mr. Cleary, you may proceed to comment on highlights or points you feel should be underscored, and we appreciate very much your cooperation on that.

Mr. CLEARY. Thank you, Mr. Chairman.

#### **STATEMENT OF HENRY V. CLEARY, ATTORNEY FOR THE ASSOCIATION OF CONSERVATORS, GUARDIANS, AND ALLOTTEES OF THE AGUA CALIENTE INDIAN LANDS AND ESTATES**

Mr. CLEARY. Mr. Chairman, Congressmen of the committee, briefly, as you know, the history of this band for a little over 50 years, the Bureau of Indian Affairs has held their land in trust. Up until the Equalization Act, or shortly before that, virtually nothing had resulted in substantial benefits to the members of these bands, this band of Indians.

In the late 1950's, Mr. Emmons of the Bureau contacted Judge McCabe with a request that he commence utilization of the guardianship and conservatorship laws of the State of California, only not on a strictly impartial or extended practice that would be applied to non-Indians. It was Mr. Emmons' request that these programs be applied to the members of this band on the basis of total employment. The letter so requesting Judge McCabe to initiate that practice is before you by way of transcript.

Mr. EDMONDSON. You speak of Mr. Emmons; you're talking about the former Commissioner of Indian Affairs?

Mr. CLEARY. Yes, sir. At the time Judge McCabe had this request presented to him, and at the time the program was commenced, there was no similar program anywhere in the United States. For that reason, among other practical reasons, there were no guidelines. There were no established policies. It was a question of "Let's try this and see if it works." The program has been in operation now for approximately 10 years.

You have heard from Mr. Kettmann the practical changes in the human situation of the tribe now, instead of living in slums. I know

of one case where one of my clients in this case was living in a house one time that had no indoor plumbing. In other instances, I know members of the band who were living in backs of automobiles. Now, almost without exception, they live in houses. Some of them live in the finest sections of Palm Springs. Virtually all of them have a substantial income, and this all in 10 years.

The program itself is not perfect. I don't think anybody connected with that will claim that it's perfect. It certainly has produced, as Mr. Kettmann said, a miraculous change in the conditions of the tribe, and I say you gentlemen are not here to argue personalities, and not necessarily to argue whether Mr. Cox was good, bad, or indifferent in his preparation and presentation of his report, but you are here to determine as best you can what recommendations to make to the full committee by future legislation.

However, in my opinion, this report of Mr. Cox's is one of the gross-est distortions of facts that it has been my mispleasure to encounter in a governmental publication. In the interest and protection of the many people whose reputations have been vilified by it, I am going to be compelled to direct some remarks to it.

You asked, Mr. Edmondson, where the report was faulty. If you will turn to page 6, the last sentence, "Although petitions to appoint conservators have been filed almost routinely as minor wards have attained their majorities, the Department has in no case participated in such actions."

Now, if Mr. Cox means literally that the Department has not filed an appearance in that action, and literally that the Department has not specifically requested the appointment of a conservator or a guardian, then that literal interpretation is accurate. The implication, however, is that the Bureau has not participated in any way, and in virtually every instance, the Bureau has been aware of the filing of the petition, has been aware of the person who has been required to have been appointed, and has been notified in advance of the request, and has, at most times, conferred with the petitioner. Therefore, their participation has, at least, been unofficial.

The second place in which the report is false, in my opinion is—

Mr. EDMONDSON. Let's get that one in focus before we go on to the next one.

Mr. CLEARY. All right; OK.

Mr. EDMONDSON. You say this is false, and yet you say it is literally true. Do I follow you right on that?

Mr. CLEARY. Yes, sir; literally, they have not filed an active—no; literally, it is false, because they have participated.

Mr. EDMONDSON. Had they appeared in court?

Mr. CLEARY. No, sir; they have not.

Mr. EDMONDSON. Have they filed any pleading?

Mr. CLEARY. No, sir, they have not; but one does not have to file a petition to participate in the filing of a petition, at least, as far as I know.

Mr. EDMONDSON. The statement that "\* \* \* the Department has in no case participated in such actions" refers back to petitions to appoint conservators.

Mr. CLEARY. Then, let me say, sir, with that clarification I present this question. If the Bureau knows about the filing of the petition,

confers with the petitioner, tacitly approves the filing of the petition, confers with the court on the filing of the petition and yet does not affix its name to the petition, I leave then the question of their participating to the committee. In my opinion, they have participated.

Mr. EDMONDSON. You say you feel this is false because it conceals the fact that of involvement in the discussions of the action to be taken and knowledge of it?

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. I see. Go ahead, sir. I just wanted to get your statement clear on that point.

Mr. CLEARY. Fine. The second point—these first two are relatively minor, but the second point appears on page 7 of the report wherein Mr. Cox, or the report, refers to the Department conducting a truncated investigation of certain activities.

My classification of falsehood is in reference to the word “truncated.” Undersecretary of the Interior Carver stated that—in a letter dated July 9, 1963 just what kind of investigation the Department of the Interior did conduct when it was asked by Congress to conduct an exhaustive investigation so that they could come forth with an “enlightened opinion,” and it was after one year of investigation that Undersecretary of the Interior Carver came forth with his recommendations.

The next point that I believe to be false appears on page 8.

Mr. EDMONDSON. Then, the word you object to in there is “truncated”?

Mr. CLEARY. Instead of exhaustive.

Mr. EDMONDSON. How do you define “truncated”?

Mr. CLEARY. Short, abbreviated.

Mr. EDMONDSON. And, you feel that they did not conduct a short abbreviated hearing, but conducted a rather extensive or exhaustive investigation?

Mr. CLEARY. Undersecretary of the Interior Carver, if he is to be believed in his letter of July 9, 1963, yes, sir. Do you care to have me read that portion of the letter, or the report? I refer to it on my page 9.

Mr. TUNNEY. Your page 9?

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. Do you have the full text of Mr. Carver’s letter? If so, we can place it in the record, if we do.

Mr. CLEARY. I believe it is part of the exhibit of the task force, Your Honor.

Mr. EDMONDSON. I don’t know if I can read this copy of Mr. Udall’s letter that responded to Mr. Dawson’s original request in 1962; it’s illegible in the copy that has been supplied to me, and if you gentlemen have been supplied copies that are also illegible, you have my sympathy.

Mr. CLEARY. The copy I have is legible.

Mr. EDMONDSON. The one dated July 9, 1963, which has been supplied to us looks even less legible than the previous one.

Mr. CLEARY. May I supply that to the committee?

Mr. EDMONDSON. If you have a copy, we’d like to look at it.

Mr. CLEARY. Yes, sir. Would you like to look at it at this time?

Mr. EDMONDSON. Yes, we’d like to look at it.

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. Mr. Cleary, I want to say on my own, having read and examined the Carver letter, that you are certainly justified in objecting to the word "truncated" being used. If Mr. Carver was accurately stating what the Department had done in this letter of 1962, I don't blame you in the least for objecting to that little bit of editorial license that has been taken in this language here.

Mr. CLEARY. Thank you, sir. The next apparent misleading statement, although I can't call it directly false, appears on page 8, wherein the report paraphrases a letter from Judge Brown under date of April 11, 1967. On that date, Judge Brown wrote to the hearing officer in charge of Palm Springs, stating that he was no longer following the practice that had theretofore been followed in allowing the Bureau to voice extrajudicial objections in Indian matters. It did, in that letter, however, state or point out that the Bureau at all times had the right to formally appear in any and all Indian matters. That bit of information was left out of your report.

An examination of Judge Brown's letter would indicate that he did so advise the Bureau. The Bureau then promulgated what is in their report as exhibits 5 through 9, and in each one of them stated that "Judge Brown has refused us permission to object." Now, this is a misstatement of facts and therefore, I ask this committee to make as part of the record Judge Brown's letter which is exhibit 4 of the report.

Mr. EDMONDSON. I have the letter before me here, and I think it would be useful to have it in the record, and if there is no objection it will be made part of the record, however, I think that you would have to agree that the letter very clearly rules out any advising the court informally—

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. In the future.

Mr. CLEARY. That's right.

Mr. EDMONDSON. So, the statement that he's no longer going to allow them to advise the court informally is certainly an accurate statement, is it not?

Mr. CLEARY. It is an accurate statement, sir, but it's only—

Mr. EDMONDSON. But, the statement with regard to appearance contains a very definite proviso for such appearance, with the assistance of an attorney admitted to practice in California.

Mr. CLEARY. That's correct, sir. That's a California State law.

Mr. EDMONDSON. So, in that instance, unless they were admitted to practice in the State of California, their chance to approach the court in any way, informally or formally, would be precluded by the Brown letter, would it not?

Mr. CLEARY. No.

Mr. EDMONDSON. Let me read you what it says here.

Last week I was told in a diplomatic way from a representative of the California State Bar that my said practice (which was the practice of being informed informally—being advised informally by local court people) that my said practice was illegal and suggested that the Bureau should intervene in State proceedings if they wished to be heard on matters pending in the Superior Court—such appearance be with the assistance from an attorney admitted to practice in California.

Now, can you tell me how an attorney from the Bureau of Indian Affairs who was not admitted to practice in the State of California

could approach the court either formally or informally under those circumstances unless he found a lawyer who was admitted to the bar in the State of California to come in with him?

Mr. CLEARY. If you read the letter literally, you're right. If, under California law, you are an out-of-State attorney, making a special appearance in the California courts, Mr. Brown—Judge Brown did not spell out the complete California law. However, I'm sure he had that in mind, and I'm sure also that the Bureau was very aware of it.

Mr. EDMONDSON. Well, the final paragraph goes on to state:

It is obvious my intention to be helpful has failed, and my procedure of encouraging the unlawful practice of law, regardless of good motive, must cease, and it has as of April 7, 1967.

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. So, I don't think they mislead anybody very much with this particular statement. Proceed.

Mr. CLEARY. I'm not accusing the report of being misleading in that which they said, but only misleading in the fact that they did not point out that Judge Brown in that letter invited informal participation.

Mr. EDMONDSON. Well, can you get around the fact that the exhibit 4 is cited, and that they include exhibit 4 as a part of the report readily available to anybody who wants to see what Judge Brown said?

Mr. CLEARY. That's true, sir, but you have to take into consideration exhibit 5, which ignores that invitation for informal participation. In other words, exhibit 5 says "We have been refused the right to participate" and my point is that exhibit 5 is a statement based upon this statement that appears in the report and not on the exhibit that appears in the report.

Mr. EDMONDSON. You're talking about the memorandum, "For Solicitor's Use Only?"

Mr. CLEARY. Yes, sir; particularly—

In mid-April of this year I was requested by Mr. Homer B. Jenkins, Director of the Bureau of Indian Affairs Palm Springs office, to confer with him concerning a recent order from the State court barring Bureau of Indian Affairs representatives from taking active part in reviewing and commenting on matters and fees involving conservatorships and guardianships of the Agua Caliente Indians.

Now, Judge Brown's letter does not bar the Bureau from taking active part. It invites it.

Mr. TUNNEY. Will you yield, Mr. Chairman?

Mr. EDMONDSON. Yes.

Mr. TUNNEY. Has any member of the Bureau office in Palm Springs been admitted to practice law in the California courts for the—

Mr. CLEARY. I can't honestly say that. I really don't know.

Mr. TUNNEY. That's a pretty pertinent point though, isn't it?

Mr. CLEARY. Yes, sir; and some of the men who deal with the Bureau more frequently than I possibly could answer that. Could I confer with them and ask them?

Mr. TUNNEY. Yes, I'd like to have you ask them.

Mr. CLEARY. The answer is "No."

Mr. TUNNEY. Well then, as a practical matter, the local office is barred from the court?

Mr. CLEARY. No, sir, as a practical matter, the local office could call upon the solicitor's office.

Mr. TUNNEY. Where is that located?

Mr. CLEARY. Sacramento office where the Bureau of Indian Affairs did have an attorney.

Mr. TUNNEY. You mean the Sacramento office would have to send an attorney down here every week to help in the hearing?

Mr. CLEARY. No, sir, because one need not appear every week. One need appear only when one has objections, and therefore, very easily, as is frequently done with out-of-town counsel, all matters in which objections would be voiced could be set upon one date per month.

Mr. TUNNEY. I believe your testimony here today that there was a duality to this system, that the Bureau had a very major responsibility, and if everybody in the office of the Bureau at the local level is cut off from speaking to the court, I don't see how they could exercise responsibilities, do you?

Mr. CLEARY. The responsibilities about which we are talking in the duality, I don't think, necessarily involve conferences with the judge. They were not cut off from talking to the judge by this letter. They were cut off from voicing objections, and when I say that, the objections that they were cut off from voicing, were primarily related to fees. As far as objections to execution of a lease, as far as the objections to entering into any contract which was under the responsibility of the Bureau, the fact of conferring with the judge on any of these matters, they were not cut off, they were merely cutoff from voicing their objection.

Mr. EDMONDSON. Judge Cleary, could I point out to you that Mr. Renda in this same exhibit 5 that you say makes it clear that they don't have any way to get into court, has a specific recommendation that should have one or more attorneys from the regional solicitor's office designated by the Department of Justice to represent the Bureau of Indian Affairs and/or the Indians in State court proceedings involving these matters where necessary, making it very, very clear that this memorandum presents the total picture and makes it clear that attorneys for the Bureau can appear and plead in the courts and that they are not bared by his order?

Mr. CLEARY. I see his recommendation, yes, but I still go back to my original that the body of the task force report was only a portion of Judge Brown's letter, and by quoting only a portion of the letter, is misrepresenting the context of the letter. It's a minor point, but I wanted to make it.

Mr. EDMONDSON. I'd have to say there is plenty of room for two opinions about it, and when they cite and include in their report the full text of his letter and then follow it with a memorandum recommending the very course of action that his letter had suggested to them, which was to have an attorney down there to appear in court representing the Indians, I find it rather difficult to reach the conclusion that you have reached, that the judge has been badly misrepresented in this report.

Mr. CLEARY. I'll go on to the next point. The next falsity appears on page 12. In the middle of the last paragraph, Mr. Cox states "Unlike the specific formulas and limitation set forth in the statutes for analogous fees in the administration of decedents' estates in Cali-

ifornia, the code provisions dealing with guardianships and conservatorships merely provide for 'reasonable' fees." Then, he goes on and states that the "reasonable" fees is left up to the discretion of the court. In fact, if any extraordinary services are performed in decedents' estates, the person performing those services are entitled to extraordinary reasonable fees which is left to the determination of the court and therefore, in that aspect, the two programs, the conservators and guardians are identical.

Mr. EDMONDSON. Let me say in commenting upon your notation on that, that counsel for our committee had noted this particular language in the report, and indicated that he felt evidence was needed to support the very paragraph to which you made reference.

Mr. CLEARY. Fine.

Mr. EDMONDSON. The paragraph including the language, "In the Indian court this means practically automatic approval of fees requested by fiduciaries and their attorneys in Indian estates unless objections are made."

Mr. CLEARY. That's the next point I was going to.

Mr. EDMONDSON. It's the feeling of our counsel that evidence should have been supplied to document this point. It was not supplied, and on this one, I think, you have some concurrence, at least, by the man who's supposed to give us legal advice.

Mr. CLEARY. Thank you, Mr. Sigler. The next appears on page 14. My objection is to the language appearing in the first paragraph, fourth line:

Accounting reflect, however, that clearly routine services such as purchasing cars or securities, preparing income tax returns, attending meetings, or consulting—

and this is where I object

consulting with wards or conservatees are frequently classified as extraordinary.

I cannot object necessarily to that first blush ordinary nature of the services. Certainly, the purchase of an automobile should be classified as an ordinary service by a fiduciary, but it has been pointed out today by testimony that some of the conservators kept their accounting in their hip pocket and the attorney had the problem of income tax returns from slips of paper. If the books were kept by a certified public accountant, there would have been no problem and it would have been very easy to prepare income tax returns, and that would have been an ordinary service. However, when you have to spend, as some of these people did, 2, 3, 4 days just deciphering figures then it changes in that particular instance from an ordinary to an extraordinary service.

Similar with conversing with the wards or conservatees. Conference once, or maybe three times a week for brief periods of time, this cannot be classified as extraordinary, but again, I'll draw your attention to a letter written in 1963 by Under Secretary of the Interior Carver when he classified the types of consultation, and I'm quoting from that letter:

One important difference present in these proceedings but absent in the ordinary non-Indian estate proceeding, is that more often than not the guardian or conservator of the Indian estate finds himself acting unofficially in the capacity of a personal guardian, that he may be called upon anytime of the day or night to assist the ward in resolving personal difficulties. These extra services have



involved, among others, such matters as traffic and criminal law violations, marriage annulments, charges of breach of peace, finding foster homes and providing for the future welfare of minor children neglected or even abandoned by parents who are under conservatorship, school reinstatements, seeking proper occupational training facilities for wards, providing psychiatric care for wards, and involvements with the selective service. None of these responsibilities is a part of the management of trust property and yet innumerable hours of the guardian's or conservator's time is spent on such matters.

Mr. EDMONDSON. Let me interrupt and make it clear regarding this paragraph and the conclusions contained in it, that our counsel had noted in our copy the facts that were needed to document these statements with regard to handling of the so-called extraordinary fees, and we were not supplied these, at least readily identified by exhibit number, for our purposes.

Mr. CLEARY. All right, sir. The next paragraph on page 14 "In a number of cases, attorney fees for lease negotiations have been allowed by the court based upon fees normally charged by licensed real estate brokers." This is not a fact. I don't know if your counsel says it should be supported by fact, but I believe in exhibit—or, the exhibit 11, which is cited by the task force officer does anything but support that position. There is a policy memorandum in existence, and this is it, which says "There will be no payment of fees on the basis of payments to realtors." The exhibit included contradicts the statement of the report. Going one step further, and offered as an exhibit at the time I submitted my testimony, is a letter from the Bureau which sets forth a very specific formula that should be followed as the maximum payment of fees somewhat based on that allowed, or claimed by the board of realtors and yet it follows basically the same pattern, so it is the Bureau that establishes this policy rather than the courts. The courts felt the same, that the attorney's fees and conservator's fees are to be based not on some predetermined formula.

Mr. EDMONDSON. I think, commenting in response to that, that it does raise questions of professional practice. I don't know what the custom is in California on that subject, but I think two things should be said. In the first place, the letter does very clearly state that "If the Bureau and the court determine from the petition filed or the testimony taken thereon that the attorney has been producing agent and would therefore be entitled to compensation commensurate with that to be awarded to a realtor or broker, et cetera, had one been involved, he may be awarded fees," and I think there is very clearly an assumption that he is to be awarded fees for his broker services, in this particular statement. Now, it does go ahead and provide a different standard very clearly in the following senses from that normally applied to brokers' fees, so I would say in that sense, there is some gray area in the language that has been used here, but they do supply the exhibit in its entirety so I would say that you have a borderline case on that one, and that's it.

Mr. CLEARY. It may very well be that it's a borderline case, sir, but the report itself says that fees are based upon fees normally charged by real estate brokers and the exhibit is contradictory to that, and exhibit 12 is included the report as an exhibit, and therefore before the Board, or the committee, but exhibit 12 does not bear out the statement immediately preceding it.

Now, on page 15 under—

Mr. EDMONDSON. Would you detail in what respect it does not?

Mr. CLEARY. Yes, sir. Following exhibit 11, which is the policy memorandum, the report states: "For example, in the estate of Vincent Gonzales, Jr., Judge Brown allowed a \$28,000 fee to attorney Hollowell during the fourth accounting period which appears to have been calculated on the basis of the amount a licensed real estate broker might have charged." There is nothing in exhibit 12 which would indicate any basis for Judge Brown's determination of this size of the fee.

Mr. EDMONDSON. I haven't located in exhibit 12, the \$28,000 allowance.

Mr. CLEARY. I don't have a copy of that. My copy does not include court files.

Mr. EDMONDSON. I don't see a \$28,000 item myself.

Mr. CLEARY. It's appearing on page—it would be the third page, \$26,000 item page 3, the item immediately above the \$2,000 for modern land lease.

Mr. EDMONDSON. For what?

Mr. CLEARY. Modern land lease. Approximately half way down, the first asterisk. Total attorney fees \$2,800, \$2,000 of which was for modern land lease. The next item was \$26,000 for the same lease, thus making a total of \$28,000.

Mr. TUNNEY. You say, on its face, it does not appear to substantiate this charge made?

Mr. CLEARY. Right.

Mr. TUNNEY. The charge in the report.

Mr. CLEARY. It doesn't show how it was computed, and yet the report attributed it to having been concluded on the basis of a comparable real estate broker's fee.

Mr. EDMONDSON. May I ask what the standard is that is recited here, "\$6,000 from 2d yr. rent, \$10,000 from 3rd yr., \$10,000 from 4th?" Is that something that is standard for the attorneys to charge on that basis?

Mr. CLEARY. No, sir; it isn't, and I have to explain, this is one of the areas where down by the trial-and-error method. When we started out, the Indian in nearly every case, had no funds or had very, very few. If an attorney or conservator effected a lease wherein he earned a rather large amount of fee, it would obviously be impossible for the Indian to pay that fee, or rather, for the estate to pay the fee, because the estate didn't have any money.

Mr. EDMONDSON. Was this a case in which Mr. Hollowell was acting as conservator or as attorney?

Mr. CLEARY. I don't know that. You'd have to ask him, but the answer—

Mr. EDMONDSON. It says: "Allowed a \$28,000 fee to attorney Hollowell."

Mr. CLEARY. Must have been acting as attorney.

Mr. EDMONDSON. It does not identify him as a conservator in that case, and it's not very easy to tell from this document, but he has claimed specifically, attorney's fees at various points in this same item.

Mr. CLEARY. The guardian was apparently claimed by somebody else, therefore, Mr. Hollowell was acting as an attorney.

Mr. EDMONDSON. So, an additional allowance of \$26,000 fee is based upon the second year's rent, an allowance of \$6,000 from it, the third year's rent, an allowance of \$10,000 from it, and the fourth year's rent, an allowance of \$10,000 from it. I think you would have to agree with me that that is a rather unusual basis for an attorney's fee to be allowed.

Mr. CLEARY. Yes, sir; and if I may, I can—I'm trying to explain that this was one of the areas of trial-and-error. If the full fee had been ordered in the first year, the estate would not have paid it, or if the estate had paid as much of it as possible, there would have remained no money for the support of the ward, and therefore, our local judges, in attempting to adequately compensate the fiduciaries and the attorneys, and yet at the same time, leave enough money in the estate for the adequate support of the ward ordered the fees paid but ordered them paid out of future income, thus, they would be paid only if that which they produced was productive of money. We found out later that such a practice was without Bureau approval, so was illegal.

Mr. EDMONDSON. What did the income tax people think about it?

Mr. CLEARY. I hadn't filed any income tax on that, so I don't know.

Mr. TUNNEY. Will the chairman yield?

Mr. EDMONDSON. Congressman Tunney.

Mr. TUNNEY. It's my understanding, Mr. Cleary, that Mr. Hollowell testified that he did charge a percentage fee of those leases which were negotiated, but he did not charge any fee at all for leases which he worked on which fell through so, this \$28,000 fee, to my understanding, represents a percentage fee; does it not?

Mr. CLEARY. I didn't hear him say he charged a percentage or, if he did, that was in his testimony.

Mr. TUNNEY. Right. Now, isn't it customary for real estate agents also to charge a percentage?

Mr. CLEARY. Yes, sir; as I understand it.

Mr. TUNNEY. Then, if this is a percentage that is being paid an attorney, then what's the difference between that and a percentage fee which was being paid to a real estate broker?

Mr. CLEARY. In this case, it would have been \$12,000 and a real estate broker would have gotten about \$40,000.

Mr. TUNNEY. I see. It's a difference—I can see a difference on quantity, but not quality.

Mr. CLEARY. And, I do not know, because I do not participate in a request for fees. I do not know how Mr. Hollowell presents it to the court. The exhibit here, 12, is not supportive of the statement immediately preceding it.

Mr. EDMONDSON. I think you have a very definitely arguable point on that, and we will ask for the Bureau of Indian Affairs to comment on that subject, I assure you.

Mr. CLEARY. The next is page 15, "There is frequent duplication of services rendered by fiduciaries and attorneys, resulting in the payment of two fees for essentially one service. For example, a fiduciary bills an estate for his efforts in effecting a lease of trust property, for handling a right-of-way transaction or for attending a meeting. The same accounting which presents the fiduciary's request for fees for these services also requests that the attorney for the fiduciary be sepa-

rately recompensed for services purportedly rendered in connection with the same matters." The exhibits are not supportive of that statement.

Most of your fiduciaries or conservators are laymen. Many of them carry on their own negotiations. As a matter of fact, most of them do. Some of them employ the services of counsel in negotiations. The barefaced statement of the report that there is duplication of services is an inaccurate statement. I don't know of too many businessmen here or elsewhere who would enter into negotiations for the acquisition of \$100,000, or alternatively, \$8 million, or whatever sum is involved, without the advice of counsel. Most often, if a businessman is engaging in some kind of negotiation issues involving substantial sums of money, he will either confer with his counsel before going, or he will send his counsel in his stead, or he will bring his counsel with him. The fact that the fiduciary negotiates with the advice of a counsel sitting on his right hand does not mean that the two men are doing the same services, and there is nothing in the task force report or anywhere else in anybody's records that indicates the businessman negotiating with the advice of counsel is charging duplicate fees when they both charge for services rendered in connection with their services.

Mr. EDMONDSON. We have a notation from our counsel that this matter has not been documented, and that the two services could be employed, and I think your point is well taken, Mr. Cleary.

Mr. CLEARY. The next is not documented. Page 16, the last sentence of the first paragraph says, "If the same attorney handles several estates in a particular transaction identical fees may be charged to each estate regardless of the routine and duplicative nature of the services." Now, the members of the committee will note this infers that it does happen, but there is no supporting documents for it, and on that basis, I will offer this by way of explanation, that if an attorney is involved in two estates, involving the same transactions, each of those two estates necessitates work, otherwise the estates wouldn't be involved, and the estate, or each charged. Now, whether the services are identical, I—factually, they can't be identical, because it involves two estates.

Mr. EDMONDSON. Let me ask you to comment on the preceding sentence that appears in this same paragraph. You yourself just testified that conservator, or the businessman, frequently sends his attorney to do the business for him and to take care of the details. The statement immediately prior to the one that you have objected to says, "In several estates the fiduciary's attorney performs services normally performed by the fiduciary, and claims attorney fees for them even though the fiduciary receives his full 'ordinary' fee." Do you think this is something that should take place?

Mr. CLEARY. Yes, for one very simple reason. The fiduciary is paid an ordinary fee, not only for the devotion, let's say, to his ward, not only for the negotiation of a lease, but he's paid primarily, and he's in office primarily, for the assumption of responsibility of conservation of the estate. Now, that responsibility and how he goes about it is his.

Mr. EDMONDSON. If he elects to delegate his normal duties to the attorney, and have the attorney perform his duties, you think that a double fee is in order?

Mr. CLEARY. I think this, that each individual situation must be examined, because it's very easy to say the conservator should have

done that. If the particular terms which is delegated to the conservator could best be handled by an attorney, then I think the conservator would be remiss if he attempted to do it himself.

Mr. EDMONDSON. Well, this allegation says "... normally performed by the fiduciary."

Mr. CLEARY. I'm sorry, sir, but what Mr. Cox classifies as normal is so far from my definition of it that that statement means very little to me, and we'll go to the sentence preceding that one, "In many instances, the attorney's services are purely routine, such as obtaining ex parte orders." I find it difficult to believe that an attorney wrote that sentence. Ex parte orders are frequently routine, but many times they are not. As Mr. Hollowell pointed out to you in the case of Mr. Fey, they are anything but routine and involve complete separation. I know from discussing matters with the trust officers at one of the local banks that quite frequently they, as fiduciary, have to keep an eye on the stock market and when it looks like the stock is going one way or other, they need that order now, not 2 weeks from now, not 10 days from now, or they would lose the estate—half the estate, or lose the advantage of making a considerable amount of money so the obtaining of an ex parte order is not a routine matter. Sometimes it is, but not every time, therefore, Mr. Cox doesn't know what he's talking about.

Mr. TUNNEY. Did he ever indicate what his classification of normal services were? You said that you have a different understanding of normal services from Mr. Cox. What is his classification of normal services? Did it, or does it appear anywhere?

Mr. CLEARY. Well, specifically, I think he somewhere let it escape that all conferences with a ward are ordinary, regardless of how many and how much. Specifically, he states that obtaining of routine ex parte—not routine, but ex parte orders, the obtaining of ex parte orders because they are routine, which is not true, or normal, and I disagree with him. I don't know if he spells out any place an exhaustive list of what he considers to be ordinary, but that is a matter of disagreement that's been going on for some time down in Indio in the courts.

Mr. EDMONDSON. You may find some comfort in the fact that once again our counsel has indicated that the key question is, the fee reasonable with the job in connection with the job performed.

Mr. CLEARY. On that question, I'd like again to refer to Under Secretary Carver's letter wherein he concludes—

Mr. EDMONDSON. Do you know that Mr. Carver is not with them any more?

Mr. CLEARY. No, sir, I don't; but he was at the time and I believe he was acting in his official capacity when he says, "From all of this, it is our conclusion that a charge that the fees are unreasonable or excessive cannot be supported." I don't believe the program has changed that much in the last 5 years.

Mr. EDMONDSON. I think that it is a very large part of the charge in the task force report that it has changed considerably in the later years of the operation. If I read correctly, the general conclusions are that there had to have been a worsening of the situation from a standpoint of the charges against the Indians and the percentage of their income that was being put into charges.

Mr. CLEARY. Could I reserve my comments on the charge until the conclusion of my testimony? I go into that in a little bit of detail.

Mr. EDMONDSON. Right. You will not, I think, disagree with the statement that they are contending that the situation became worse as you moved along into the sixties.

Mr. CLEARY. Yeah, it had to become worse because there was on money at all available in the fifties, so of necessity, it became worse as money became available and started coming in, worse from one point of view. I don't agree with the classification.

Mr. EDMONDSON. Mr. Carver's judgment in 1963 would not necessarily be controlling as to what the facts were in 1967 when the task force made its studies.

Mr. CLEARY. I think you will find many substantial fees had been awarded prior to Mr. Carver's letter. I think you will find the nature of the services rendered both before and after are substantially similar. There have been more charges in the, say, 2 years after 1963 and in the most recent 3 years been very few negotiations. I'd like to offer into evidence Mr. Cox's exhibit 15.

Mr. EDMONDSON. If there is no objection to each of the exhibits which have been specifically referenced by Mr. Cleary in his statement, they will be made a part of the record at the appropriate point. Hearing no objection, it is so ordered.

All right, Mr. Cleary.

Mr. CLEARY. I had a specific point on that if I can find it in my notes.

Mr. EDMONDSON. It appears on page 18 of your statement, Mr. Cleary, with reference to exhibit 15.

Mr. CLEARY. Yes, sir. I state:

The authors criticize alleged extraordinary fees by attorneys for services normally performed by a fiduciary but fail to give any instances in which this situation has occurred.

Then I go on—

If an attorney is representing three clients each of whom are involved in a transaction, the attorney will represent each of the three clients to the best of his ability. For each of the three clients he must perform some services. If the three clients happen to be estates and the transaction necessitates the obtaining of a Court Order for the completion of the transaction the attorney must perform services in connection with the obtaining of court orders for each of the three estates.

The example used in the report, i.e., exhibit 15, is a classic example. Each of the four estates referred to therein necessitated work by the fiduciary and the attorney. The time devoted to all of the problems involved was divided by the number of estates involved and each estate was charged for its aliquot proportion of the total services. There was no duplication of fees.

In exhibit 15, it has been brought out, I believe, rather consistent. An examination by the audit team of the exhibit would indicate that each estate was charged for a certain number of hours. The examiners have said, "Well, because there's 20 hours in each"—now, I'm pulling the figure out of the air. I don't know how many hours they charged the estate, but because 20 hours was charged to one estate, and 20 hours charged to the other, obviously was spent and there's a duplication of fees. Now, had they gone back to check that statement, behind that statement, they would have found that there were 40 hours spent, and the time was evenly divided between the first two. Not having gone

behind it, you can't very well accept my word for it, but at least you can see that there's room for doubt, that exhibit supporting the point that I make.

Mr. EDMONDSON. Would you care to comment on exhibit 15, the final paragraph that appears in the judge's order? It says:

It is further ordered, adjudged and decreed that the duties of the Guardian are not delegable. The relationship of the Guardian with his Attorney is that of attorney-client. And work done by the attorney must have been ordered done by the Guardian for legal work.

Mr. CLEARY. I think that's a fine statement of law.

Mr. EDMONDSON. You see any inconsistency in that statement with regard to the guardian delegating his duties and the conservator delegating his duties to the attorney?

Mr. CLEARY. No, sir; I don't. I think it'd be applicable in either case. I think that statement would be applicable to either conservator or guardian.

Mr. EDMONDSON. On the other hand, I understood you to say a little bit earlier that if the conservator has an attorney go out and do the job that he should be doing it is proper for the attorney to collect for this service, even though he's doing the delegated responsibilities of the conservator.

Mr. CLEARY. I believe I said that, and I believe I made an error when I said the delegated duties. The word that is of importance there is the word "delegated."

Mr. EDMONDSON. You may not have used the word "delegate" but—

Mr. CLEARY. I think I did, but I may be wrong.

Mr. EDMONDSON. But, I understood it in that sense. You said it was a proper thing for an attorney to handle various jobs for the conservator and that in those instances, it would be proper for him to collect a fee as attorney.

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. And, this is clearly contradictory to the language of this order with regard to what a guardian can do about his duties.

Mr. CLEARY. Well, sir, I don't think it is contradictory to that order because that order uses the word "delegated" and delegate means abrogation, abrogation of responsibility, and I don't think the—when you delegate to someone else to do this, "I don't want any part of it."

Mr. EDMONDSON. You kind of escape the responsibility of a guardian or conservator, but you are still going to be held accountable to court?

Mr. CLEARY. That's right.

Mr. EDMONDSON. When you ask somebody else to do your work for you, whether you call it delegate or whether you call it just a request for a petition, the same principle with regard to the charging of the fees for what work should apply, it seems to me.

Mr. CLEARY. Well, I can't disagree with you. The only thing I can say is that you are reading a minute order. The minute orders are the notations made by the court clerk. They are not to be taken necessarily as the language used by the judge in issuing the order. Most frequently, minute orders are simple notations which are ultimately reduced to a formal order I do not know the specific circumstances of the issuance of that particular minute order. However, because it is a minute order, I can probably say it wasn't the verbatim language of

the judge, and I don't know what he intended or to what he was referring when he made it.

Mr. TUNNEY. You stated previously that it was a good statement of law.

Mr. EDMONDSON. Yes, a good statement of law, and also it appears on the letterhead of James Hollowell, attorney at law, indicating that it was probably drawn by Mr. Hollowell for the court to sign.

Mr. CLEARY. It would appear so.

Mr. EDMONDSON. Something picked up from the judge's extemporaneous statements on the bench and reported by the reporter.

Mr. CLEARY. Seeing the paper you held up, it is obvious—I was under the impresssion it was a minute order. The document you have isn't a minute order. It is a prepared order, so my remarks on that are out of order. However, it does appear to be a good statement of law, and I can't argue with it.

Mr. EDMONDSON. I agree that it has validity as far as I am concerned. I just can't understand why it wouldn't apply in the case of conservators the same as with guardians.

Mr. CLEARY. I don't see why it shouldn't apply either. The only thing I can say is, you have to look at the specific case that is being assigned to the attorney in the specific instance to ascertain whether it is one that can best be served by the fiduciary or best performed by the attorney. I don't think that at this time or at any time, we can formulate rigid rules for the application of this principle. It is a good principle, but it's application must depend upon the circumstances.

Turning now to the inadequacy of records, which appears on page 17, as Mr. Hollowell has pointed out, 23 or 25 of the 47 audited reports, only 36 of which are included here—43 audited reports rather, bear the notation "Inadequate supporting documentation." Having seen only one audit, and I didn't see that completely, the conservatorship made a portion which related to his records and it indicates that his estate was classified as one having inadequate supporting documentation, and in his statement there were two prior fiduciaries, one of whom died in 1961 and one of whom died in 1962. This particular conservator was complimented or, if those are the words, commended, let's say, in the audit report. His records were complete and exhaustive, he had documentation for everything; unfortunately some of the—either one or both of the two decedents' records couldn't be found and therefore, his estate—the living conservator of his estate was classified as having inadequate records. In essence they did, but the records go back 10 years and nobody that I know of keeps records for 10 years, even though the Internal Revenue only asks you to keep records for 4 or 5. So, why, after the court has approved the accounting after the conservator or fiduciary has died and some—what is it?—7 years after, should the estate be classified as one having inadequate records. It would be certainly unusual under those circumstances for the estate to have all of the adequate records of two previously deceased fiduciaries, and in that classification, in 13 of the estates the prior fiduciaries had passed away.

Mr. TUNNEY. You say you only saw one accounting?

Mr. CLEARY. Yes. The Bureau wrote me a letter—as attorney for the association, I asked permission to examine the accounting of the audits, and I was told they were personal in nature and that only the



conservator could see them. In this one case, the conservator showed me his and these notations that appear, his records were beautiful but that the previously deceased fiduciaries' records were not, and that's why the estate is included in one of these 25 as having inadequate records, and my position is that—

Mr. EDMONDSON. How long have you been conservator?

Mr. CLEARY. Beginning 1965; 1965, 1966, and 1967.

Mr. EDMONDSON. So, you had a situation where records were inadequate, and this task force made its study in 1967, I believe?

Mr. CLEARY. Yes.

Mr. EDMONDSON. So, they were looking for records prior to 1965?

Mr. CLEARY. Yes.

Mr. EDMONDSON. And, they were unable to find them?

Mr. CLEARY. They went back to the very beginning of the accounting when the Indian had the estate created for him in the superior court, and that's where all this commenced. A few records were missing in the Indian fiduciaries since the beginning of the Indian estate and that estate was classified as having inadequate records. Now, I think that's a misleading classification.

Mr. EDMONDSON. Your impression of that is based on the conclusion that they were objecting to the absence of old records and not to the absence of recent records?

Mr. CLEARY. Yes, sir.

Mr. EDMONDSON. 1964, 1963, for example, it would be reasonable to expect to find in 1967, I think you will agree, even for tax purposes?

Mr. CLEARY. Yes, sir; I think it would be. Because I did not see the audit, I can make no further comments on the alleged categories that Mr. Cox has placed estates in, however, I will make one comment and that is, assets understated and the assets overstated. The auditing team picked up an item at its initial cost, for instance, an automobile costing \$5,000 in the year 1961, would be carried on the books of the auditing team as being \$5,000 in 1967, whereas the fiduciary depreciated the property—appreciated and depreciated the property that he was accounting for, so if the auditing team saw that the car costs \$5,000 at its inception and the fiduciary later indicates it to be worth only \$500, then he was understating assets, and if he had a piece of property or stock in 1963 and in 1964 that stock was raised in value, it would be classified as overstated.

Mr. EDMONDSON. What point are you documenting on that, that 10 cases were understated?

Mr. CLEARY. Ten understated and then on page 17, seven overstated.

Mr. EDMONDSON. You base that again, on your examination of one accounting?

Mr. CLEARY. Yes, sir. I see it once, I therefore applied it that they must have carried it throughout.

Mr. EDMONDSON. Is it possible that in that instance, the examiner felt that the depreciation from \$5,000 to \$500 in that time period might be overdepreciation?

Mr. CLEARY. It's quite possible, but the point I'm making is the audit—this doesn't appear to be an overdepreciation. In other words, I'm not saying that in one estate there was an overdepreciation of this

thing, because he couldn't carry it at the original cost, it's an understatement. Now, the true facts are——

Mr. EDMONDSON. I can't imagine any auditor neglecting the fact of depreciation of an automobile. To me, it's inconceivable.

Mr. CLEARY. I agree with you.

Mr. EDMONDSON. Unless it's an antique that might have appreciated in value.

Mr. CLEARY. I agree with you emphatically.

Mr. EDMONDSON. Do you know whether or not it was an antique automobile?

Mr. CLEARY. I don't think it was.

Mr. EDMONDSON. You're not sure?

Mr. CLEARY. No, but if it was bought new 5 years ago, I don't think it is antique yet. It may look like it, but——

Mr. EDMONDSON. Let's get a time estimate here to determine if we want to take a break or not. What is your time estimate for completion?

Mr. CLEARY. I suggest a break.

Mr. EDMONDSON. Can you give a time estimate at the same time?

Mr. CLEARY. Can I give a time estimate when I come back from the break? I will see what I have to say and what I can eliminate. I would say probably 30 minutes.

Mr. EDMONDSON. Let's take a time break then, and recess for 5 minutes.

(A 5-minute recess was taken.)

Mr. EDMONDSON. The subcommittee will come to order. Mr. Cleary, although I am not going to interrupt you as frequently as I have been, I want the record to show that my silence will not necessarily indicate agreement on the points you make. I think that goes for the full committee, but on the other hand, we may be on agreement on some of them, as we have been on some of them.

Mr. CLEARY. All right, sir; thank you. I have already in my written report which is part of the record, indicated a majority of the statements of the task force report which I feel to be false, therefore in my oral presentation I will attempt to eliminate as many of those as I feel can justifiably be done, but one that I cannot is the false statement appearing on page 20 under paragraph (d) at the top of the page, wherein the task force concludes that the receipt of fees from a lessee necessarily involves conflict of interest. I draw this committees' attention to canon No. 6 of the rules on ethics or professional conduct for the State bar. Parenthetically, this charge is made by Mr. Cox's report against many individuals: Mr. Hollowell, Mr. Arnold, Mr. Carroll, the firm of Schlesinger, Schlecht & McCullough, Mr. Ruskin, Mr. Simpson, and Judge Therieau. The rules of professional conduct state:

*Rule 6. Disclosure of Relationship with Adverse Party and of Interest in Subject Matter.* A member of the State Bar shall not accept professional employment without first disclosing his relation, if any, with the adverse party, and his interest, if any, in the subject matter of employment."

*Rule 7. Representation of Conflicting Interests.* A member of the State Bar shall not represent conflicting interests, except with the consent of all parties concerned.

Now, not only do the canons of California cover this situation, but the canons of professional ethics of the American Bar Association

covers it also, this point. Now, rule 6 says, in part, it's unprofessional to represent conflicting interests except by express consent of all concerned given after a full disclosure of the facts. In every one of the instances cited by Mr. Cox as apparent conflict of interest, or necessarily involving a conflict of interest, he has stated and on the exhibits he has used supportive of his conclusion, indicates full disclosure, indicate full knowledge by everybody concerned, and in every instance that I know of that he cites, he indicates that the receipt of money from the lessee benefited the client that the attorney was serving.

A perfect example is the Wind Free Country Club. The situation cited by Mr. Cox on page 20, the Palm Canyon Country Club and the Tahquitz Trailer Park, in that situation, the lessee didn't have enough money to continue making payment and needed a moratorium. The lessee consulted with each of the individual guardians and conservators and Indians involved if there were no fiduciaries, with the express negotiation between the lessee and the representatives of all the lessors, and I believe, the negotiations at least, if not appearing in the Bureau offices were done with the express prior consent of the Bureau, resulted in agreement that there would be a moratorium in the payment of rent. The negotiations were completed without the involvement of any attorneys. The respective fiduciaries, after they had concluded the agreement, executed the agreement, or at least agreed upon it, then went to their respective attorneys, and they said, "Get court approval, and don't bill us, the lessee's going to pay." The individual attorney then prepared the petitions for court approval of the moratorium agreement, obtained the approval, and then obtained his fee from the lessee. This was not only a conflict of interest because obviously the attorney in that situation was representing his client in getting court approval upon an agreement that his client had already reached, so there was, first, no conflict of interest, but even assuming there was conflict of interest, there was certainly full knowledge, because the client brought the deal to the attorney, and said, "Here's something I have agreed upon, now you go get it done," so if the client was the one who initiated the contract, the attorney certainly can't be classified as not disclosing to the client what the client had already done. It's ridiculous, and yet Mr. Cox, in every situation, said there was a conflict of interest here, and I don't understand how he could have come up with that conclusion. Now, do you have any questions on that?

Mr. EDMONDSON. Yes. Not with the cases you have cited, but if everything was by agreement with the parties and with the full disclosure and agreed to on all sides, do you think that the record in this KDES item, for which a bill was submitted for \$3,500 and then reduced to \$500, bears that out?

Mr. CLEARY. Mr. Hollowell, like many clients, sometimes does not express the true picture. When I was sitting back there, I was dissatisfied with his explanation of the events that transpired. Could I explain it as I understand it, and as I understood it by examining his records?

Mr. EDMONDSON. If you would, and reconcile it with your statement that all of the situations that are cited in this report are instantive of harmonious agreements between all the parties on what the fees were going to be and—

Mr. CLEARY. Well, the matter of portion, the matter of harmonious agreement on the amount of the fee, I don't think I can comment, because obviously, on the \$3,500, there was some disharmony, but on full disclosure, let's assume we have three parcels of land, each land adjacent to the other. On parcel A was to be situated the radio tower. In connection with the lease of parcel A, a portion of parcel A, the lessor agreed to pay the cost of obtaining rights-of-way across parcel A, the remaining portion of parcel A; therefore, Mr. Hollowell obtained rights-of-way, general rights-of-way for use by the radio station across the remaining portion of parcel A. That was part of the lessor's responsibility. The lessor paid Mr. Hollowell for the obtaining of the rights-of-way, or the establishment of them, and going to court and getting court approval. Mr. Hollowell charged his landlord, or his client, for the KDES rights-of-way. That appears in his accounting.

Right next to parcel A is parcel B, across which radio station KDES needed a right-of-way. There was no obligation on the part of the lessor to acquire that right-of-way. Some other person owned it, but the right-of-way still had to be obtained in order for KDES to operate. Their attorney then asked Mr. Hollowell to assist in obtaining that right-of-way across parcel B, and the same situation applies to parcel C, and parcel C, then lies on Vista Chino. Therefore, Mr. Hollowell charged his client for obtaining KDES rights-of-way, obtaining approval of right-of-way across parcel A; Mr. Hollowell charged KDES for obtaining rights-of-way across parcels B and C. There was no duplication of work, there was no duplication of fees.

Mr. EDMONDSON. No conflict of interest?

Mr. CLEARY. No conflict of interest for the simple reason that in obtaining the rights-of-way across parcels B and C for KDES, Mr. Hollowell was serving the interest of his client for the simple reason that every time a tenant goes down or goes under, the landlord suffers, and therefore, by working for KDES in getting the right-of-way across parcels B and C, he was assisting KDES to put into effective use the lease that they had with Mr. Hollowell's client.

Mr. EDMONDSON. The thing that really bugs me about this situation is, how can you negotiate for both sides in a transaction when you are trying to acquire something that is held by one side for the benefit of the other side, and how can you represent both of them and collect from both of them when it is a question as to how much is going to be paid for that right-of-way?

Mr. CLEARY. I'm sorry, sir; there is no negotiation involving Mr. Hollowell's client. You see, the owner of parcel A had to give the right-of-way to KDES. Now, there was no negotiation involved there. It's part of the lease. At this point, Mr. Hollowell was not charging KDES anything, was not representing KDES, had not involved KDES in any way, because KDES was represented by their own attorney. Presumably, the conservator negotiated with KDES on terms of the lease, and as far as the right-of-way across parcel A, Mr. Hollowell was still representing exclusively his Indian client, his conservator client.

Then, after the lease had been executed, and before the next accounting period, KDES then in a position of being a lessee, then said, "We need rights-of-way across parcels B and C." Mr. Hollowell did not represent the owners of parcels B and C. Mr. Hollowell then—if

negotiated is the right word, I don't know—I presume the negotiation was effected by KDES attorneys, but the only work that Mr. Hollowell does is obtaining of the rights-of-way through court approval, through Bureau approval. At this time, he was not representing any interest conflicting with those of the particular Indian that he represented.

Mr. EDMONDSON. Mr. Hollowell still in the hall?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. Is this an accurate statement, a more accurate statement in terms of the transaction than the one you gave the committee?

Mr. HOLLOWELL. Yes, sir. Mr. Cleary told me that I had not made it very clear.

Mr. EDMONDSON. Thank you.

Mr. TUNNEY. May I ask a question?

Mr. EDMONDSON. Yes.

Mr. TUNNEY. Were the owners of parcel B and parcel C the same person? Was it the same person or a different person?

Mr. HOLLOWELL. Different persons. There were three estates involved.

Mr. TUNNEY. Two different estates involved?

Mr. HOLLOWELL. Three different estates involved.

Mr. TUNNEY. Three different estates involved. All of them Indians?

Mr. HOLLOWELL. Yes, sir.

Mr. TUNNEY. And, were you representing B and C at other times? Representing them for other work?

Mr. HOLLOWELL. I represented, I believe, whichever you call it, B, as attorney.

Mr. TUNNEY. Represented B as attorney at other times on other matters?

Mr. HOLLOWELL. Yes.

Mr. TUNNEY. But, at the time that you obtained a fee from KDES for acquiring the right-of-way across B, you weren't representing the owner of B, you were representing KDES, correct?

Mr. HOLLOWELL. I was directed by the conservator of B that they felt the right-of-way was all right, to go ahead and do the work.

Mr. TUNNEY. And, who did you charge? Did you charge KDES or did you charge B, the owner of B?

Mr. HOLLOWELL. If I remember, I charged KDES because they were supposed to pick up the bill for all this work.

Mr. TUNNEY. But, you were representing B at other times on other matters?

Mr. HOLLOWELL. Yes.

Mr. TUNNEY. Now, who established what was the fair price for the right-of-way? Did you establish that, or did the conservator of the property that was owned by B set the price?

Mr. HOLLOWELL. I did not set the price. I consider myself the mechanic in obtaining the court orders and drawing the documents. If I remember right, the conservators involved were Walter Melrose, now deceased, and gosh, I can't remember who the other one was, but I was not a negotiator. I was a mechanic.

Mr. TUNNEY. Did they tell you, in effect, "We will give you"—this is the conservator now—"We will"—

Mr. EDMONDSON. Let me read the task force finding on this and see if we can't refresh several memories. "Radio Station KDES in Palm Springs acquired rights-of-way from two Indian estates represented by Hollowell, and from a third Indian estate represented by another attorney." So, you represented two Indian estates, Mr. Hollowell? Did you have representation of one or two estates?

Mr. HOLLOWELL. To the best of my memory, I only represented one of those intervening Indian estates. Mr. Cleary and I did not go into this in great length, because of the time factor and this is one charge that was not documented.

Mr. TUNNEY. The question, of course, that I have, and possibly I can get an answer to it, if you establish the price for the right-of-way over that land B, or C, and it had an Indian owner who you were representing at other times, in other capacities——

Mr. HOLLOWELL. The owner would, the guardian-conservator would, not myself.

Mr. TUNNEY. The guardian-conservator.

Mr. HOLLOWELL. Yes.

Mr. TUNNEY. And, they told you what the price was?

Mr. HOLLOWELL. No. In all fairness to you gentlemen, in this particular instance, and remembering the documents, the right-of-way was given first with an agreement of whatever damage they were assessed would be paid later, and to the best of my memory, these damages haven't been paid. In other words, this was an emergency situation and I don't believe there was an agreed price for the rights-of-way. It was sort of a carte blanche with the utility company that they would pay whatever the appraisal was and later.

Mr. TUNNEY. And, you didn't feel at that time that there was a conflict of interest, or would be a conflict of interest even though you were representing the owner of the estate in other capacities, to charge a fee to KDES——

Mr. HOLLOWELL. No, sir.

Mr. TUNNEY (continuing). When in a sense, I suppose, they have been dealing, at least hopefully, dealing at arm's-length basis to be receiving a fee from KDES for a right-of-way when you are representing the owner of the land on which the right-of-way was going to be granted at other times?

Mr. HOLLOWELL. If I grasp what you're saying, the attitude on many other rights-of-way, and the attitude in this particular right-of-way, it didn't particularly benefit the intermediate estate, and the guardian-conservator says, "All right, the right-of-way is all right with me so long as the other people pay for it. We don't want our Indians or our Indian estate to be paying for it." Of necessity, this includes going over legal documents and getting court orders.

Mr. TUNNEY. Yes; but a payment had to be made to the Indian's estate, didn't it?

Mr. HOLLOWELL. Yes; and that was up to the conservator. I can say in the case of Walter Melrose, he was far less a stupid man than myself, and he never used me in that function. He made up his own mind and what he wanted to do and did it.

Mr. EDMONDSON. Will the gentleman yield to bring up a point?

Mr. TUNNEY. Yes.

Mr. EDMONDSON. Were you attorney for Mr. Melrose for his estates when he was conservator?

Mr. HOLLOWELL. Yes, sir; I was.

Mr. EDMONDSON. And, do you recall if Mr. Melrose had some hand in KDES?

Mr. HOLLOWELL. Yes; I believe so.

Mr. EDMONDSON. To clear the record in two estates rather than one, if the record is clear on that, the exhibits contain an exhibit which shows that you operated as attorney for Mr. Spiegelman in the Andreas estate——

Mr. HOLLOWELL. That's right, sir.

Mr. EDMONDSON (continuing). Which also was involved in the KDES right-of-way.

Mr. HOLLOWELL. That is the lease portion. There are two other parcels of Indian land between that and Vista Chino Street. Yes; I drew that lease, every page of it.

Mr. EDMONDSON. So, there is both a lease and also a nonexclusive easement for the purpose of ingress and egress to KDES across the premises of Andreas' estate?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. So, there were two other Indian estates from which something of value was obtained for KDES?

Mr. HOLLOWELL. Yes, sir.

Mr. EDMONDSON. I must say, Mr. Cleary, that kind of clouds up a little bit your explanation of the situation.

Mr. CLEARY. I did not intend to mislead, but I do wish to draw the court's attention to the fact that parcel B, according to Mr. Hollowell, the negotiations therefor were carried on by the conservator and not Mr. Hollowell.

Mr. EDMONDSON. I understand that.

Mr. CLEARY. And, in response to the report's comments on the individuals involved, the report says that, and I quote the report referring to Judge Hilton H. McCabe, page 22, "He not only appointed the original groups of fiduciaries but sat in judgment on their requests for fees." This is an inaccurate statement. "Obviously, if Judge McCabe had seen fit to do so, he could have set excellent precedents and guidelines. It is unfortunate that he did not." That is a totally unwarranted conclusion, and the most vilifying statement of a man who devoted such a great deal of attention, time, and energy to the establishment of this program.

If any one individual in the desert is to be credited for the establishment of this program and for the conversion of this band of Indians from a destitute group of individuals into the wealthy individuals that they are today, that credit should be given to Judge McCabe.

You have in front of you a transcript of the conference that was held in 1958 in which the problems facing the Indians were presented to the public at large, and the Bureau, many of whom were in attendance, as we were prospective conservators, conservatees, and guardians. He had meeting upon meeting with members of the tribal council and members of the local Bureau, as well as members of the various businesses trying to get them interested in helping the Indian out of his very sad plight in which he found himself.

Judge McCabe, as a superior court judge, could not set a precedent that would be followed in Washington. The only thing a local superior court judge can do is the best he can under the law that is applicable to him. As I stated earlier, this program was one of trial and error, and he tried more than anyone else to do what he thought was best for the ultimate benefit of the Indians.

It is interesting to note that one of the charges that he imposed upon the conservators was that of educating their wards. In many cases, and believe me, this is not attributable to every member of this band because it would be unfair to say all, that in many instances the education of the ward was like leading a horse to water, you can't make him drink, and you cannot criticize the conservator or the fiduciary for not educating someone who didn't want to be educated, and this is true in quite a few instances, but on the question of education, Judge McCabe very early realized that the Indian had to be educated.

Education was the only answer to this mess that we are all in today, and only when the Indian became fully aware of its commercial and legal appropriate use could he then assume responsibility for control of his property, and in this connection, Judge McCabe wrote a letter to the Bureau and suggested that the Bureau contact the local colleges asking them to set up a special course for the education of the local Indians in commercial practices.

Judge McCabe spelled out in detail the nature of the course that should be established, and how it could best reach the individuals to be educated, and the Bureau answered, "We're not set for that, and we're not interested." And this, I believe, we already have in evidence before you.

There were charges made against Judge Brown, and the exhibits J, K, L, and U, which are attached to the reply of the association to this task force report, I think, aptly demonstrate the refutation of those charges against Judge Brown.

Mr. EDMONDSON. On that point, Mr. Cleary, would you comment on the transactions reported in the task force report in which Judge Brown is reported to have telephoned Mr. Hollowell and asked him if he would find someone to purchase a plot of land in which Judge Brown had the major interest, as I understand the thing. You said something earlier about that matter to me during recess, and I think that it would be useful to the record if you brought out the point that you called to my attention during the recess.

Mr. CLEARY. Yes, sir; I'll be happy to do so. Judge Brown owns this property that he decided to sell. He contacted Mr. Hollowell, and Mr. Hollowell transmitted the judge's desire to Mr. Levy.

Mr. EDMONDSON. Do you see any problem in the propriety in contacting an officer of the court, this court who was acting in a fiduciary capacity for some Indian estates with regard to a sale through him of land belonging to the judge?

Mr. CLEARY. I think it was an ill-chosen means of selling property, and yet, from my personal acquaintance and friendship with Judge Brown, and from my knowledge of the facts, I think that everything was done with the most sincere and complete integrity, because after the contact with Mr. Levy, the judge, as I understand, made it known that he wanted a certain price for the land. At that time, it was the universal practice that the Bureau would necessarily appraise



the land before it was acquired, and Judge Brown made it very clear that he would sell it at no price other than his own asking price. As soon as Mr. Levy indicated that he had a willingness, at least an open-mindedness about the acquisition of the property, the judge contacted the Bureau and said he had some land he wanted to sell and asked for the Bureau to appoint an appraiser. The Bureau did appoint an appraiser, the appraiser did confer with Judge Brown, and the appraiser's statement is in the file presented by the association in which he specified that in a meeting with Judge Brown, Judge Brown very definitely told him he owned the property, the appraiser must have known Judge Brown owned the property otherwise the appraiser wouldn't have gone to Judge Brown.

Mr. EDMONDSON. That same piece of evidence contains the allegation—I don't know whether it's so or not—that Judge Brown handed a proposed report to him that included a dollar figure for a per-acre value to be found by the Bureau.

Mr. CLEARY. I didn't notice that in the report, sir.

Mr. EDMONDSON. You did not notice it?

Mr. CLEARY. No. If you will direct my attention to it, sir—

Mr. EDMONDSON. I'll see if I can find it. Page 25.

Mr. CLEARY. Pages 25 and 26.

Mr. EDMONDSON. On page 26:

Mr. Jenkins stated upon interview that he was disturbed by the apparent attempt by Judge Brown to conceal ownership of the land. He stated that during a court ceremony at Indio on March 22, 1967, Judge Brown handed him a handwritten draft of a proposed letter from the Bureau of Indian Affairs to a title company expressing Bureau approval of the purchase of the land at \$1,800 per acre.

Mr. CLEARY. Two things I don't—one, I don't know how Mr. Jenkins could have been shocked at any purported attempt to conceal ownership, because Mr. Jenkins must have been the man who called upon the appraiser to talk to Mr.—Judge Brown, so somewhere in here, there is something missing. If Mr. Jenkins didn't get the appraiser down here from Washington, who did? And, how did he know to go see Judge Brown?

Mr. TUNNEY. Wasn't this the land that was described by boundaries and not by owner?

Mr. CLEARY. Yes, sir; the petition to the court did not set forth that Judge Brown was the owner, but—

Mr. TUNNEY. So that, if the Bureau, for instance, had contacted the Washington office and asked them to send down an appraiser, if that had not appeared in the court record, he would be unaware of it, is that right?

Mr. CLEARY. No, sir; it would appear in the Bureau's records.

Mr. TUNNEY. It did appear in the Bureau's records?

Mr. CLEARY. Yes. The Bureau knew that Judge Brown owned the property, the prospective principal—

Mr. TUNNEY. When did they find out?

Mr. CLEARY. Before the appraiser came to talk to Judge Brown.

Mr. TUNNEY. Does that appear in the records?

Mr. CLEARY. In the record it appears that the appraiser talked with Judge Brown on March 17. This was before the—any court hearing was scheduled, as I recall the facts.

Mr. TUNNEY. Well, the facts stated in here are that—

Mr. EDMONDSON. Excuse me, Mr. Tunney. Mr. Cleary, the report says that :

Mr. Jenkins stated upon interview that he was disturbed by the apparent attempt by Judge Brown to conceal ownership of the land.

It does not state at what point in time he was disturbed by this situation, but I'm concerned more about the statement that Judge Brown had handed him a handwritten draft of a proposed letter from the Bureau of Indian Affairs to a title company expressing Bureau approval of the purchase of the land at \$1,800 per acre :

Jenkins said Brown told him this letter would simplify and expedite the sale of the property. The Bureau of Indian Affairs prepared the letter as drafted by Judge Brown but substituted the figure \$1,500 per acre, the value established by a Bureau appraisal.

Mr. CLEARY. I am uninformed, sir, and unfortunately, I am at a disadvantage because I don't know what Mr. Jenkins told the person who wrote this report. I would like, and I think it proper that Mr. Jenkins be queried concerning the fact that this letter he received from Judge Brown, handwritten or not, is a form letter that was required by the title company. I believe that the evidence will indicate that it was. I am sure under the circumstances, that if this letter was given by Judge Brown to Mr. Jenkins, I have no reason to doubt the \$1,800 figure was stated therein, but I'm sure that it was an understanding if not a direct statement that—

This is what I'm going to sell it for. If your appraiser doesn't come up to that price, then don't bother sending him in, because I'm not going to sell it.

Mr. EDMONDSON. Well, the contradiction at this point is, it says that Judge Brown handed a handwritten draft of a proposed letter from the Bureau of Indian Affairs to the title company, which is a little bit in conflict, and we will ask for comment on that question as to whether it was handwritten or not.

Mr. CLEARY. I'm sure it was, I have no reason to disagree with that. I don't know what it was, but when I say form letter, I do not mean that it was a printed form letter. It was a standard type of letter and that's what I meant when I made reference to a form letter. That's one problem with trying to not quote people, but attributing statements to them, and this is something that I think a direct statement from Mr. Jenkins and the judge would be the only way that this particular problem could be solved.

Mr. EDMONDSON. This committee is not trying to judge the fact of the situation that prevails as far as this, but where there is a clear-cut clash in the task force report and the testimony that is given to us, and we would welcome supplemental opinions on that subject.

Mr. CLEARY. I can give you an affidavit by Judge Brown as to—

Mr. EDMONDSON. We shall be pleased to have it.

#### DECLARATION OF MERRILL BROWN

I declare under penalty of perjury the following to be true and correct :

My name is Merrill Brown ; I am a Judge of the Superior Court of the State of California in and for the County of Riverside.

After I undertook the administration of the Indian Affairs of the Agua Caliente Band I contacted the Tribal Council and the Tribal attorney with respect to their wishes in any matters which might come before me in connection with the

Conservatorship program; in this connection I received a letter from the Tribal attorney, a copy of which is attached hereto and incorporated herein as if specifically set forth; the letter states in part that the Tribal Council wanted its Guardians and Conservators to buy additional land rather than sell additional land; several years later I telephoned Mr. Hollowell who represents approximately one-third of the Guardians and Conservators and advised him I was interested in selling land and inquired of him if he knew of anyone of his clients who would be interested in acquiring land for their wards.

Thereafter Mr. Hollowell telephoned me that Mr. Levy, Conservator for the Estate of Shirley Kitchen, might be interested. I thereafter talked to Mr. Levy and showed him my land and he expressed an interest but made no commitment for the acquiring thereof. I told him my desired selling price would be \$1,800.00 per acre.

Thereafter I spoke with Mr. Homer Jenkins and advised him that I had the land in question which might be purchased by the Estate of Shirley Kitchen from non-trust money and requested Mr. Jenkins to cause the Bureau to appraise the property. Mr. Jenkins stated to me that he would request an appraisal.

Thereafter I was contacted by a Mr. Swanson an appraiser of the Bureau of Indian Affairs who came to my office in Indio and with whom I discussed my ownership of the land, my desired selling price, the price I paid for the land, the offers I had received therefor. Mr. Swanson stated to me he would appraise it.

Shortly thereafter I caused my Secretary to prepare a letter to a Title company and forwarded the same to Mr. Jenkins.

Title companies in California are naturally interested in any matters which relate to land, title to which they are to insure. The land offered by me was to have been acquired by an Estate pending in the Superior Court subject to approval of the Court. The land was being offered to the Estate of an Indian and I knew that a title company would not insure title thereto unless the acquisition of said land was approved by the Bureau and it was for the purpose of assuring a title company that the acquisition had the Bureau approval that I sent the proposed letter to Mr. Jenkins.

Thereafter I received, on the Bureau stationery, the form that I had caused my Secretary to forward to Mr. Jenkins with the selling price of \$1,500.00 included thereon.

I presumed the \$1,500.00 figure was inserted by Mr. Jenkins as a result of the appraisal of my land by Mr. Swanson. A copy of the letter received by me from Mr. Jenkins is attached hereto and incorporated herein.

The appraisal of \$1,500.00 was not acceptable to me and I accordingly wrote to the Bureau advising them I did not desire to sell. A copy of that letter is attached hereto and incorporated herein.

At no time did I initiate the proposal of the Conservators generally buying non-trust land but to the contrary upon being advised by the Tribal attorney that such was the recommendation of the Tribal Council I thereafter, making full disclosure of my ownership and desired selling price contacted one person whom I thought to best be in a position to know of any Indian Estates which desired to buy non-Indian land and requested of him the name of any Conservator or Guardian who would be so interested.

At no time was Mr. Levy committed to buy my land.

At no time did I fail to reveal to either Mr. Levy or the Bureau that I personally owned the land.

At no time did I attempt to negotiate with the Bureau to raise the appraisal figure, but to the contrary, when the appraisal did not meet my desired selling price I ceased all negotiations.

Executed at Indio, California this 25th day of June 1968.

MERRILL BROWN.

SIMPSON, REHKOP & WATSON,  
Long Beach, Calif., March 16, 1966.

Re Guardians and Conservators Association.

HON. MERRILL BROWN,  
Judge of the Superior Court,  
County of Riverside,  
Department "B", Indio, Calif.

DEAR JUDGE BROWN: At the outset let me say on behalf of the members of the Tribal Council and myself that we were distressed and deeply concerned over

the news of your recent illness. It was first reported as a heart attack and we were relieved thereafter to learn that it was identified with the Asian flu.

During the last tribal meeting I promised that I would look into my records for the purpose of finding a copy of a letter of complaints, sometimes referred to as the 'petition of grievance' which the Tribe had delivered to Commissioner Nash during the latter part of 1964. Enclosed herewith is that copy. From reading it you will see specific claims and facts respecting the Guardians and Conservators Association and which I know will be of interest to you.

Following your departure from the tribal meeting, the members presented certain suggestions which they asked me to submit to you regarding the obligations and duties they feel every guardian or conservator should consider. These include the following:

(1) They should have their wards attend tribal meetings, and if the ward is too young, should on occasion attend the tribal meeting themselves so that they will acquire an understanding of tribal motivations and thinking.

(2) They should encourage their wards to take educational courses so that their comprehension respecting the extent, nature and potential of their estate would be enhanced.

(3) They should seriously consider a policy of buying additional land instead of selling.

(4) They should have their wards participate in lease negotiations.

(5) In their annual accountings, they should set forth more than monetary figures, i.e. they should provide the Court with an account respecting any progress or advancement the ward has made.

(6) They should always supply copies of all papers pertaining to the ward's estate and take the time to explain whatever questions might arise.

(7) They should diligently endeavor to work with the Tribe in formulating programs pertaining to the general welfare so that there will be a unified representation.

Thanking you again for your consideration and courtesy.

Very truly yours,

RAYMOND C. SIMPSON, *Tribal Attorney.*

U.S. DEPARTMENT OF THE INTERIOR,  
BUREAU OF INDIAN AFFAIRS,  
*Palm Springs, Calif., March 27, 1967.*

Subject: Estate of Shirley Ann Kitchen—PS-56 Indio P-1511.

SECURITY TITLE INSURANCE CO.,  
*Riverside, Calif.*

(Attention Gerald A. Mercer, vice president and chief title officer).

GENTLEMEN: This is to inform you and others to whom a copy of this letter is being sent as designated below that the Bureau of Indian Affairs received a copy of the Petition for Instructions in the Estate of Kitchen, Indio P-1511, now pending in the Superior Court of the County of Riverside, State of California, on or about the date the original was filed; that the Bureau also received notice of the time and place of the hearing of the petition; that the Bureau caused contents of the petition to be examined and the land appraised by its own appraiser and as a result of such examination and appraisal, the Bureau will not appear at the time of the hearing of said petition nor object to the granting of said petition, provided that the purchase price does not exceed the sum of \$1,500.00 per acre.

Sincerely yours,

HOMER B. JENKINS, *Director.*

MARCH 29, 1967.

Re estate of Kitchen.

BUREAU OF INDIAN AFFAIRS,  
*Palm Springs, Calif.*

(Attention Homer Jenkins).

DEAR MR. JENKINS: I received a copy of your letter to the Security Title Company and I want to thank you and the Bureau, including of course, Mr. Swanson, for the attention you have given this matter. Under the circumstances there will be no sale to this estate.

In closing, I wish to thank you again for all the things you have done.

Sincerely,

Mr. EDMONDSON. May I say, in all fairness to Mr. Hollowell over here who, a minute ago, was testifying from memory about the conservators several times of several tracts. If a careful search of his records discloses that there was only one tract, and not two, then a letter on that subject would be welcomed by the committee. We're interested in getting the truth on it, and if you have that inaccurate a memory, we don't want to see people penalized by testimony from memory.

Mr. CLEARY. Going back a moment to page 25 where Mr. Levy said he felt some shock when Homer Jenkins of the Palm Springs office advised him on or about March 23, that the Bureau had appraised the land at \$1,500 per acre and that if the court approved the sale at this price there would be no objection to the sale from the Bureau, and that Levy would, in effect, be committed to make the purchase. If such a statement were made to Mr. Levy, I'm sure that he would be shocked, because up to the time of that conversation, Mr. Levy had signed no contract to purchase a piece of property and to have somebody tell him that if the court approved the purchase that that was tantamount to a contract to buy, or a contract to sell. The information is certainly misleading. Had that information been related to me, and were I in Mr. Levy's shoes, I, too, would have been shocked.

On exhibit 23 and 24, again Mr. Hollowell I don't believe, made his point correctly. Exhibit 24 is an accounting for the year 1963, something that did not—this is on page 28, the first paragraph.

Mr. TUNNEY. Page 28?

Mr. CLEARY. Yes, 28. The part that did not appear as part of exhibit 24 was the letter to the court which is in the court's files indicating that Mr. Hollowell's fees were charged to the estate on an hourly basis. Mr. Hollowell has introduced into evidence as one of those documents the accountings for the years 1964 and 1966. The accusation has the years 1963, 1964, and 1966, that Mr. Hollowell duplicated his charges. The alleged proof of that is exhibit 23 wherein Mr. Fey indicates that he paid money to Mr. Hollowell during those years. From the fact that Mr. Fey paid Mr. Hollowell during the years involved, the task force concludes that Mr. Hollowell double charged. The task force did not, but should have, referred and included as part of exhibit 24, the accountings filed for the years 1964 and 1966 which accountings specifically spell out that Mr. Hollowell did some work for Mr. Fey, was paid by Mr. Fey, and is not charging the estate for that same work. The task force, even though they had these files for 155 days, neglected to read these accountings or advise anybody who was reading this report that those accountings were in existence. That he spelled out to the court he wasn't charging and why. Now, I feel that those two accountings for 1964 and 1966 should be made part of the record.

Mr. TUNNEY. Mr. Chairman, I would recommend that we make part of our file those accountings which the witness has just referred to.

Mr. CLEARY. You have them.

Mr. TUNNEY. Are they part of our files, or a part of Mr. Hollowell's?

Mr. CLEARY. Yes, Mr. Hollowell's.

Mr. EDMONDSON. Without objection, they will be made a part of the committee files.

Mr. CLEARY. I think I have covered the other situations involving Mr. Hollowell and the other attorneys on the conflict of interest situation. The statement appearing on page 34 as to what the association's funds were to have been used for is a simple conclusion of the task force, which is not borne out by the association's bylaws, constitution, or minutes. Mr. Hollowell has testified as to what they had hoped to do and what they actually did do. There is a question of misuse of conservatorship proceedings, if I can find that, and two instances I cited; that of Mr. Siva which, as Mr. Hollowell has pointed out is still before the courts and it's an interesting situation that Mr. Cox, since the lease relies upon the decision of the appellate court, but in the case of the petition for conservatorship for Mr. Siva, relies upon the trial court. Apparently, one court has more authority in one situation than it does in another, depending on the point of view that Mr. Cox wants to take.

The matter of Segundo, there is a—well, as Mr. Hollowell pointed out, there is a misstatement of California law on page 44 where it says "It is not permissible under California law, for a conservator to charge fees for legal work," and I say it's a misstatement of California law because there has been no decision on it, so how Mr. Cox can—how he can imply that's going to be the law when some appellate court decides that it will rule on it, is interesting and I wish I had that foresight, but until some appellate court does rule on it, there is no California law on that point.

Mr. EDMONDSON. Would you say that it is possible that the statement was an outgrowth of the final paragraph that occurred in that judge's order on the subject of attorneys' services having to be specifically contracted for as attorney services?

Mr. CLEARY. Anything's possible, sir, and so it could be a possibility, and yet, in this particular instance, I think it is a very poor conclusion, because in this particular instance, the attorney and the conservator were one and the same; and how do you specifically hire yourself to act as an attorney? I don't know. Lot's of people are schizophrenic, but—another misstatement in there is the objection to the fees charged by Mr. Segundo's attorney, and that the objections were raised by the amicus. That's true, but Mr. Segundo through his then attorney, objected to the fees also; and I might add, parenthetically, that there is a statement in the report that says "There is an undue concentration of individual activity in this whole program." Mr. Hollowell was the attorney for the conservator of Mr. Segundo; Mr. Segundo wanted to change—Mr. Hollowell was the conservator, rather; Mr. Segundo wanted to change conservators. He sought the appointment of an individual attorney; his wife from whom he was divorced—obtaining a divorce—objected to the appointed fiduciary. That objection was ultimately recognized by the court; and Mr. Pierce, who is one of the members of the tribal council, was appointed as co-conservator for Mr. Segundo. In the course of getting a change in conservators, Mr. Segundo also wanted a change in attorneys for his divorce action. I represented Mr. Segundo in his divorce action. Mr. Pierce is, in effect, one of my clients, although he's not really, because I don't represent the conservatorship, and you get a

lot of people involved in a lot of things, because there are very few people involved in a lot of things, because there are very few people who engaged in this type of law and that makes another point, that when you do have a specialty, the people who practice this specialty are generally few and the work involved in the specialty generally migrates to those individuals who know what they're talking about, and that's why we have so few people involved in so many cases, because Indian law does involve specialties.

Mr. TUNNEY. Can I just ask a question here? Is it the custom in California for a conservator of an estate to represent that estate also as an attorney?

Mr. CLEARY. When you say "customary," I'd have to say "No," because there are so few attorneys who are capable of acting in the fiduciary capacities, so few attorneys have the business acumen which would warrant their being appointed a fiduciary, and it's not a practice.

Mr. TUNNEY. I was thinking in reference to your term of Mr. Hollowell representing this particular Indian both as a conservator and his attorney, and the question was whether he was charging him as the conservator or the attorney: you don't know if it's schizophrenia. The only thought that I have there is, I think it is important to know for which service he was charging, either conservator or as attorney; don't you agree?

Mr. CLEARY. Yes; but I should think his petition for fees would show what he was asking for.

Mr. TUNNEY. I'm sorry if I misunderstood your schizophrenia remark.

Mr. CLEARY. I was making reference to the order that the conservator must specifically order the attorney's work done, and I was being facetious as to how Mr. Hollowell, as conservator, could order himself, as attorney, to do certain work.

Mr. TUNNEY. But, in effect, he had to do it?

Mr. CLEARY. In effect he had to do it, yes; but I don't think he did it by changing hats. I think it was that when a problem came up that involved the services as a conservator, for instance——

Mr. TUNNEY. You don't think there's a problem?

Mr. CLEARY. I don't see it, no; because quite frequently you have not inconstolables, but quite frequently you do have other instances where people represent themselves, and I don't think it's necessarily a problem specifically involved in this area.

Now, we come to the meat of the matter. The report says that the conservatorship program has been——

Mr. EDMONDSON. How much time are you going to spend on the meat of the matter? We've been listening to you for about 2 hours now on what I thought was some of the meat.

Mr. CLEARY. I'll be brief because it's in the report, in my testimony. The report says that "This program has been costly to the Indian in economic terms and in human terms." As I've indicated, certainly anything is subject to interpretation, but the Indian a decade ago was a lot worse off in terms of his assimilation into society, to command the respect from society, the respect that he was entitled to from society. Today, he's an incomeed individual, doing, acting, living as any other human being, and this, I think, is the minimum that he can expect, and

I'm sure, as times goes on, his position in society will be increased as much as financial affluence can increase it.

In terms of economic cost to the Indian, I must respectfully disagree with the task force conclusion because they make a comparison of the cost to income. Certainly, income must be considered, and yet the idea of comparing cost to income at the beginning of a program gives no true picture any more than a comparison of how a candidate in one State getting 2 percent is going to end up getting elected to a particular job. The whole picture must be taken into account. To say this rounded out to 200,000, this is an overstatement, because the task force report indicates \$1.9 million has been paid, but actually, \$1.8 million has been paid, but the picture of costs includes several factors. One, what was the \$1.8 million paid for? Was it paid for ordinary services, or was it paid for total services? Now, it was, as a matter of fact, paid for total services. That includes—the letter of 1963 points out, it includes felony defenses, it includes matrimonial problems, it includes juvenile problems, it includes advising on how to buy an automobile, it includes building a building, it includes virtually every type of problem known to man because these people are just like everybody else and have the same kind of problems, and so these total charges go far—or, relate to services which go far beyond the normal services performed by a conservator of an estate. That's one point that Mr. Cox ignores.

Another point he wishes to make is that \$1.9 million bears a relationship to the income of 44 percent. Now, why he's making this charge I'm not sure; but I do know this, that the leases that produced the income are still producing the income. Many of them have about 60 more years to go and for him to say that the amount of 44 percent of the income is comparable to a situation where a prospective employee goes to an employment office and says, "How much will you charge when you get a job," and the employment office says, "Our charge is one month's rent." Well, if you analyze it—let's say he goes out and gets a job, and if you analyze the cost of getting the job with the income from the job at the end of the first month, you are going to find you have paid 100 percent income to get the job, and that's ridiculous; but if you wait until that job has been underway for about 5 years, you find that you're paying actually 1.66 percent so the comparison of costs to income would be a fair comparison, if the income has been allowed to season so you can see how much the work has produced; and I think Mr. Cox, at this time, is very premature in making that comparison, particularly since he claims that there has been \$4 million plus or minus income over the whole program, yet the fiscal year 1967 on June 30, the tribe was earning \$1,018,000.

Now, if that's true, by this year, the cost that had been paid out should be compared against \$5 million income; next year, they should be compared against \$6 million income, and the year after that it should go up, if nothing else is done.

Mr. EDMONDSON. Can you document, in support of your thesis, that the fees paid of all kinds are a diminishing percentage of total income for the tribe?

Mr. CLEARY. Well, I've given Mr. Sigler—

Mr. EDMONDSON. Because carrying your theory on to its logical conclusion, you should have a situation where your fees are a steadily



diminishing percentage of the total income, even though they might increase in dollar amount.

Mr. CLEARY. I have given to Mr. Sigler a compilation of every accounting filed in every Indian estate from the very first estate, and that's a total compilation of income, nontrust estate, and when a sale of a trust asset occurs, that's noted, too. The ordinary fees paid to attorneys, and the conservators, the ordinary fees paid—the extraordinary fees paid to them, and compilation of every other fee, and a percentage analysis of the fees paid to the various columns is in there.

Mr. EDMONDSON. You have them broken down year by year to show what's happening to fees as a percent of total income, year by year?

Mr. CLEARY. No, sir; I have not; I'm sorry. I did not break it down by the year, but I do know—

Mr. EDMONDSON. Would you agree with me that if they are any kind of implemental beneficence here in which the income is increased rapidly as a result of successful management, and those management fees are just tied to the immediate benefits conferred and do not continue on through the time of the lease, that they are pretty well terminated within the year or maybe 3 or 4 years, but not more than 4, that you should have a picture of how your total number of fees, the total amount of fees is going up, and the total amount of income should go that much more rapidly so that your fees as a percentage of income should be going down?

Mr. CLEARY. I agree with you that that figure would be excellent and would present an excellent—

Mr. EDMONDSON. I think it would make a case for you, if it's available, and with the talents you demonstrated in this case, I'm surprised you haven't presented it.

Mr. CLEARY. I'm not sure they are of account, sir, because of the fact that, as I said earlier, the early petitions don't show in each instance the particular service for which a charge was made. In all instances, since, I believe, mid-1964, this figure could be arrived at or could be gathered, but to go back before 1964 would be hard to say that \$10,000 was paid for a lease whereas, it might have been paid for a divorce, but from 1964 on, I think we can get this information.

Mr. TUNNEY. Wouldn't services related, or not related to income protection or Indians entering the picture fuzz up your results?

Mr. CLEARY. That's right.

Mr. TUNNEY. And, wouldn't that solve your problem of getting these figures of some of the leases that collapsed after a period of 2 or 3 years, to have the lessee or lessor—excuse me, lessee, if the lessee was not able to make a financial go of it and at that particular time made a few installment payments and they just went bankrupt or signed over the property?

Mr. CLEARY. But, I think that would not necessarily impede the picture, because it has to be taken into account in arriving at a cost per income, and also the sale leases must necessarily be included because if there are too many of them, obviously the cost is going to be higher, so I think the information wanted by Mr. Edmondson could be obtained for the later years, even though there were leases that failed.

Mr. EDMONDSON. Fine. We'll attempt to get the documents into

evidence. Now, I'll ask you, would it be possible for you to conclude here in a period of about 3 or 4 minutes?

Mr. CLEARY. Yes, sir. Not only can be, but will be.

Mr. EDMONDSON. It would be deeply appreciated by the staff and the subcommittee.

Mr. CLEARY. The last point I have to make is that the actual cost should not in any event, be compared to income. This is a probate matter, this is a conservation of assets. Each accounting period, the conservator or fiduciary is charged with the responsibility of conserving a certain quantity of money or assets. The true cost or analysis should not be made to income, but should be made to amount of responsibility. In other words, every conservator—if a conservator can save or conserve \$100,000 1 year, he should be entitled to whatever it is, three-quarters of 1 percent of that \$100,000 for that particular year. If you take the average cost—if you take the total expenses to the Indian of \$1.9 million and compare it to the total responsibility for the conservators over the 8 years that the term covers, you will find that the actual cost is 5.2 percent, not 44 percent as Mr. Cox would have us believe.

Finally, the recommendation that I have is that this committee or Congress decide whether or not the tax shelter is going to be continued ad infinitum, and if it is, that the Palm Springs area should be established, that the Palm Springs representatives of the Bureau should be given virtually complete autonomy so that they can deal with these local and immediate problems, locally and immediately, and if you do that, you could do away with the entire conservatorship program, and you'd have the Indians the wards of the Government forever. If this is what you want to do, fine. I don't think that's the answer. I think the answer is the ultimate termination, and it would be my suggestion, as contained on page 38, the Government direct the Bureau to appear at all minors and guardians, and I ask that because right now we're having objections that go back 5, 6, 7, 8, 9 years, to things that happened that early, and the Governments just now coming in, and even though the Bureau has had full knowledge of what's going on, about 6 years later, they say, "You shouldn't have been there," so I'd like the Government to be ordered to participate in guardians for minors. That way, once the matter has been successfully determined, it can't be reopened other than as any other non-Indian guardianship could be reopened.

Second, when the Indian attains the age of 21, the Secretary determines if the Indian is competent. If the Government decides the Indian is competent, then I would distribute property to the Indian and the distribution should—not as I state here, I've given more thought to it—should not be effective 100 percent at the time of the Indian's attaining majority, but it should be determined by the question of, "Can the Indian afford to have this property." If he has at least 10 percent of his property leased and producing, then I think he should have the property distributed to him, if he's competent. If he doesn't have that 10 percent, but is competent, then it should be distributed to him when he has 10 percent of his property under lease. If the Indian is suspected by the Government of not being competent, then regular guardianship proceedings should be initiated. The Indian will then have a chance for a trial by jury of 12 peers to determine if he is competent. If he is competent, then the distribution of his property

should take place as above; if he is not, then the Government should retain legal title to his property until such time as either he is competent or until such time as the property is distributed to his heirs.

Are there any questions?

Mr. EDMONDSON. Just one question. Your statement regarding the Tunney bill, and your evaluation of it. Are you speaking of the bill most recently introduced, or are you speaking of the earlier bill?

Mr. CLEARY. The one introduced in May between writing that report now, I haven't had a chance to read it. I have had a chance to read it, and my comments are the same.

Mr. EDMONDSON. Thank you very much, Mr. Cleary. You're a very good advocate.

Mr. CLEARY. Thank you, sir.

Mr. EDMONDSON. At this stage of the hearing, we are going to endeavor to request the remaining witnesses to stay with a 5-minute time limit. I know it may put a burden on several of them, but I think the time is such that it is a reasonable request from the subcommittee, with the understanding that if any witness appears and is unable to present his points in 5 minutes time, he will have permission to submit for the record a supplementary statement. The first witness I want to call upon is the vice chairman of the tribal council, Mr. Pierce, who has asked for permission to comment.

Mr. PIERCE. Mr. Chairman, what I have to say will take just a second. From our impression this morning, the hearings will be held open so that we will be allowed to testify in Washington. Due to the lateness of the hour, the fatigue of the reporter, we will reserve our testimony until that time, and we want to thank you very much for coming out and looking into our problems.

Mr. EDMONDSON. Are you speaking as a member of the tribal council on that?

Mr. PIERCE. Yes, sir.

Mr. EDMONDSON. All right, sir, we appreciate your thoughtfulness on that subject. There will be subsequent hearings in Washington on the tribe's position with regard to the departmental substitute which has been proposed, and that hearing, of course, will be open to testimony to any citizen who is interested in being heard on that subject, whether a member of the tribal council, or member of the tribe, or an individual in the State of California who has reason for wanting to testify on this subject.

I have a statement here which has been filed by Mr. Ray Hiller. Mr. Hiller, if you will come forward, I'll be glad to hear from you at this time.

Mr. HILLER. Mr. Chairman, this is Mrs. Hiller.

Mr. EDMONDSON. We're happy to have you, sir.

Mr. HILLER. The tribal council has asked you if you have time—if you don't have time to hear us—you haven't heard from any of the tenants who have been on section 14, which I have since the forties, may we come back to Washington, also, Mrs. Hiller and I, when you have your subsequent hearings? I would like to take my 5 minutes now, and then finish back there.

Mr. EDMONDSON. Yes, sir; if you can afford the airplane ticket, yes, you'll be welcome. I don't think the Government is going to be paying the transportation of any witnesses back there. That's a decision for you to make.

Mr. HILLER. Mr. Chairman, we've waited all these years for our day in court; and I am sure we'll be able to save up enough money to come back there.

Mr. EDMONDSON. All right, you may proceed at this time.

Mr. HILLER. I'd like to make my first statement—is my 5 minutes beginning now?

Mr. EDMONDSON. Yes, sir.

#### STATEMENT OF RAY HILLER, ACCOMPANIED BY MRS. HILLER

Mr. HILLER. Now, I don't want to defend members of this tribe and also the tenants of many years in section 14 from one of the conservators who gave the impression that we don't want you to carry back to Washington that all of the Indians are drunk, or all of the tenants were prostitutes, and the wrong kind of people.

Mrs. Hiller and I are graduates of the University of California. We are both licensed real estate brokers. I served in World War I, came out with a disability. While her father paid her way through college, the U.S. Government came to the hospital where I was recuperating and told me I was discharged; so that's when I got my degree and we taught school many years. I think Mrs. Hiller did 38 years and I did 20. Now, the only reason she did 38 is, we lost our property here in 1960 under the Saund Act. Before that, we had very pleasant relations with the members of the tribe. In fact, I'm still on section 14 with one of the members of the committee, one of the committee and paying my rent every month.

Mr. EDMONDSON. You mean, one of the members of the council?

Mr. HILLER. One of the members of the council; yes. We still have two houses there, but the hotel we built was taken away from us in 1960. Now, it's rather peculiar that the only one member of the tribe that was criticized today happened to be the one Indian we met and worked with all these years, and the only legal firm that I heard criticized here was the firm of Schlesinger & Schlecht, and they are the ones that represented this same Indian when we went to court, and unfortunately, we went before the only judge criticized here, so we didn't get our day in court; we were just thrown out of court.

Mr. EDMONDSON. Mr. Hiller, if you just heard criticism of one judge and one attorney, I don't believe you've been here all day.

Mr. HILLER. The one that testified here, I mean. As far as the appellate court is concerned, we don't have much luck. We got up to the appellate court and there was the other judge. Now, when these doctors ordered me to the desert with my lung condition, they said go to the desert, but I should have gone to Las Vegas. We do very well in the nickel machines over there; we've never had any luck here.

I do want to say that the tenants that we found, our neighbors in all those years are fine people. They were retired people. A lot of them were very nice neighbors and I didn't see any prostitutes and drunks among the tenants. We paid our rent very clearly all the time. In fact, I think I paid the Gloria Gillette rent \$100,000 in 18 years, and I think the—gosh, if you're using the figures I have heard here today, it must have brought the value up nearly a quarter of a million with the property being taken away from us overnight.

Now, there are other people the same way. I just want to say this,

and you have the statement, in 1960 when I sent in my ground rent as usual, it was sent back to me with the statement I was no longer their tenant as the land had been sold or leased to others. This, despite a written agreement that should they sell, I would be given first chance to buy this land, on which agreement Mrs. Hiller and I relied for justice and fair treatment.

Since 1960, and we organized in 1960, the people that were put out and their homes were burned, I don't believe it was the neighbors did any burning, and maybe the word got all over the country. Since 1960, I have witnessed many other ground rent tenants, Negroes, Mexicans, poor whites and Indians of other tribes who had all been induced to build homes and churches on section 14, have them burned down, many of which were new and my property was new. I don't know where this conservator gets the idea that there was nothing but shacks. We built our pool, we built 20 new units, we built seven duplexes, and I don't see—that was all under city inspection so where they try to give the facts—your committee—the facts that all the tenants of section 14 were the wrong type of people, we were getting along fine with the Indians on this, but these conservators come in here and with their lawyers and conservators, and your committee has heard how they have been charged all that money.

This one Indian lady this morning had her own guardianship and she made her own deal, and I'm sure that a lot of these people are qualified to do that themselves. Certainly, had they been left alone, and had Mrs. Hiller and I been left alone, we could have paid our rent as we paid all the 18 years before, so I believe your committee should look into this. There's a lot of people with—there is a lot of dissatisfaction in this country the way poor people are being treated, and certainly they were in this section here.

Mr. EDMONDSON. May I ask you a question regarding your statement, Mr. Hiller. You said that they informed you that they had sold your property. Are you speaking of the Bureau of Indian Affairs, or are you speaking of the tribal council?

Mr. HILLER. No, I'm speaking of Mrs. Gillette and her mother. The mother was the guardian when she was the minor.

Mr. EDMONDSON. You have a complaint against two individuals rather than—

Mr. HILLER. No, I don't have a complaint against the mother. The mother had seen the sense and said I should have been given the opportunity to buy the—

Mr. EDMONDSON. If you had a valid agreement with them, would you have a lawsuit against them for breach of contract?

Mr. HILLER. A valid contract is legal, and as far as the court was concerned, it wasn't valid. We were told by the Indian office back in the early forties to make our deal with the Indian, and the same Indian got that piece of land, but even though she signed the agreement in 1950, she signed it again in 1955, when the Indian Bureau give us another lease, told us to go ahead and build all these extra things on, it come up to 1960, we was just told to get off.

Mr. EDMONDSON. You were told to get off by—

Mr. HILLER. Mrs. Gillette.

Mr. EDMONDSON. The contracting party that—

Mr. HILLER. Mrs. Gillette told us to.

Mr. EDMONDSON. And, you had—

Mr. HILLER. She told us she had sold it to—

Mr. EDMONDSON. Commenced a lawsuit to reinstate your claim?

Mr. HILLER. Judge Brown threw it right out of court, and Judge McCabe, appellate—by the way, Judge McCabe did disqualify himself and only two judges heard it instead of three.

Mr. EDMONDSON. Any questions on this? On the left? On the right? No questions. Thank you, Mr. Hiller, we appreciate your staying within the time limit, and of course, if you want to come to Washington to be heard by our larger contingent of colleagues, we will certainly be pleased to hear you, sir. Would you like this letter to the committee with your signature made a part of the record?

Mr. HILLER. Yes, sir.

Mr. EDMONDSON. Without objection, it is so ordered. It will be made a part of the record at this point.

(The document referred to follows:)

From: Ray Hiller, World War II service-connected disabled veteran.

To: Congressional committee investigating Agua Caliente conservatorship program in Palm Springs, Calif.

Subject: Confiscation of the property that I built on section 14 after paying ground rent for 18 years.

Conservators: Gloria Welmas Gillette and Lena Welmas McGlamery.

Early in the '40's during World War II, when Los Angeles became "Smogville", doctors ordered me to leave, due to my lung condition and move to the desert. A soldier living on Section 14, ordered overseas, had a small home which these conservators agreed I could buy from him and occupy. Later as my health improved in this climate, they urged me to rent 7 vacant lots adjoining this house and construct 7 duplexes, which were built under city building laws and city building inspection.

In 1950 I was given an Indian Bureau 5 year lease and they approved my adding 10 rental units.

In 1955 another 5 year lease was given me and they approved another 10 units, a pool, a social hall and a new office fronting on Indian Ave.

In 1960 when I sent in my ground rent as usual, it was sent back to me with the statement I was no longer their tenant as the land had been sold or leased to others. This despite a written agreement they gave me that should they sell, I would be given first chance to buy this land, and on which agreement I relied for justice and fair treatment.

Since 1960 I have witnessed many other ground rent tenants, Negroes, Mexicans, poor whites and Indians of other tribes who had all been induced to build homes and churches on Section 14, have them burned down, many of which were new and built under city codes and inspection.

All these people look to your committee for a complete hearing and ultimate justice.

Respectfully submitted.

RAY HILLER.

Mr. EDMONDSON. We have one further witness, and I have examined the statement that he has—

Mr. BURKMAN. May I ask a question? Will the interested parties receive copies of the testimony?

Mr. EDMONDSON. Would you identify yourself?

Mr. BURKMAN. Yes. I'm Clarence Burkman (phonetic), and I am one of the interested parties, and my question is, Will the interested parties receive copies of the testimony because most of us aren't going to Washington?

Mr. EDMONDSON. You mean testimony of the hearing here or in Washington?

Mr. BURKMAN. The ones that will be taking place in Washington.

Mr. EDMONDSON. I think that will be dependent upon whether or not there is a bill reported as a result of these hearings in which event there will be a printed report of the testimony that is heard. I think it will be dependent upon whether legislation moves from these hearings. As a general rule, there have been cases where they were printed without a bill being moved, but I would say it'd probably depend in this instance on whether or not there is a bill moved out of the committee.

Mr. BURKMAN. Thank you.

Mr. EDMONDSON. We have a statement here which I have examined from a witness who wanted to be heard, but because of the nature of some of the statements contained in here, and the personalities that are involved in it, I will inform the gentleman who has submitted it, that we will either have to receive this for the file, or we will have to go into executive session to hear this testimony. Is Mr. Maddox here?

Mr. MADDOX. Yes, sir.

Mr. EDMONDSON. Mr. Maddox, let me—before you begin your testimony now, would you prefer to file this for the file, or would you prefer to be heard in executive session, because you are making a number of very strong accusations identifying individuals—

Mr. MADDOX. Yes.

Mr. EDMONDSON (continuing). And I think as a matter of procedure in a case of this kind, it would be our rule to take this in executive session and not to take it in open session.

Mr. MADDOX. That's a good idea.

Mr. EDMONDSON. That would be acceptable to you to do that?

Mr. MADDOX. Yes.

Mr. EDMONDSON. And, if the subcommittee is agreeable, we will ask our spectators who are here, all of them, with the exception of the reporter for the committee to excuse themselves from the room, and we will go into executive session.

Mr. MADDOX. I just want to make a general comment, though.

Mr. EDMONDSON. Mr. Maddox, I will say on this, that we have, all of us, read your statement and we are all familiar with what it contains.

Mr. MADDOX. I'm not going to refer to the statement. I just want to make a compliment on what I've heard here today, and in making that statement, I want to say that the Indians have been well represented, and I believe the committee has done a good job looking at the interest of the committee and—

Mr. EDMONDSON. I appreciate that very much.

Mr. MADDOX (continuing). I compliment them on the—

Mr. EDMONDSON. Before you go into the matter that's covered in your statement now, sir, let me allow time for the room to be cleared, please.

May I say before you begin, I also appreciate the patience and the courtesy and attentiveness we've had here in this hearing. It's been a pleasure to hold these hearings and we're very grateful to all of you who have submitted statements rather than be heard before the committee.

The committee stands adjourned.

(Thereupon, at 7:30 p.m., the hearing in the above matter was concluded.)





Memorandum

To : Honorable Charles A. O'Brien  
Chief Deputy Attorney General  
Department of Justice  
6000 State Building  
San Francisco, California 94102

Date May 31, 1968

File No.:

From : Loren Miller, Jr. —  
Office of the Attorney General  
LOS Angeles

Subject: Palm Springs, Section 14 Demolition

The Attorney General's Office was requested on July 22, 1966, by the Fair Employment Practices Commission to contact Mr. Ernest Moore of the Office of Economic Opportunity in Palm Springs, California concerning the removal of several hundred residents from an area of that city known as Section 14. The FEPC request to the Attorney General's Office was the result of a letter which Mr. Moore had written to Governor Edmund G. Brown.

Deputy Attorney General Loren Miller, Jr. went to Palm Springs and consulted with Mr. Ernest Moore concerning his complaint. Mr. Moore said that the City of Palm Springs had burned down the homes of Negro residents of Section 14--destroying their personal belongings, as well as the buildings--without giving the residents sufficient notice of the planned destruction.

Following this initial meeting, on July 25, 1966, extensive interviews were conducted by Mr. Miller and a special agent of the Department of Justice. The interviews included city officials, contractors involved in the property destruction, conservators for the Indians, and

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residents of Section 14. Most of the demolition occurred in late 1965 and in 1966. Delay in issuance of the final report resulted from extended unavailability of certain participants and workload problems within the Attorney General's Constitutional Rights Unit. Every statement in this report is based on substantial testimony by knowledgeable witnesses and participants.

#### CONCLUSION

There is no evidence that any crimes were committed in the removal of the residents from Section 14 and the destruction of their homes. Yet the incident displayed a unique insensitivity on the part of the City of Palm Springs to the problem of adequate minority housing, in particular, and to minority-community relations, in general.

The manner in which the demolition of Section 14 was accomplished, makes it a classic study in civic disregard for the rights and feelings of minority citizens.

Homes were destroyed with no real concern on the part of the city that the families were properly notified of the impending destruction.

Accompanying the imperious destruction of the Negro homes in Section 14 is the city's continuing disconcern for relocation of these citizens. This has resulted in many minority citizens being forced to live in Beaumont or Banning-- twenty-five or thirty miles from their working places in Palm Springs. Other former residents of Section 14 moved into a formerly defunct housing tract in a desolate, wind-swept area of North Palm Springs, where they live two and three families to a house.

While Palm Springs is a relatively small city, and the number of persons involved was only 1,000 -- this does not excuse the city's action, nor does it diminish the

antagonism of the persons involved in the eviction and destruction.

In terms of proportionate population, Palm Springs' action is equivalent to the arbitrary removal of 200,000 persons from their homes in Los Angeles.

When a natural holocaust devastated sections of the wealthy Los Angeles suburb called Bel Air, it was declared a disaster area and received special federal benefits. The minority residents of Section 14 did not receive such aid when their homes were destroyed by a city-engineered holocaust. Such inequities give rise to antagonisms.

The hostility created by the hardship forced on the city's Negro population is not the only problem caused by Palm Springs' clearance of Section 14. The Indians who own the land are also disillusioned, since the land which once produced revenue for them now lies vacant. This disillusionment is closely connected with the federal government's investigation of the administration of Indian guardianships and conservatorships in Palm Springs. There is evidence of unusual cooperation between developers, the Indian conservators, and the City of Palm Springs, in the demolition of Section 14. The Section 14 situation reinforces the question of Indian conservator conduct which was initially raised by the Department of Interior.

#### RECOMMENDATION

While the harm caused by the Section 14 removal cannot be erased, we would recommend that the City of Palm Springs undertake special efforts to correct the problems of inadequate minority housing and the general low level of relations between the city government and the minority residents of Palm Springs. Housing discrimination and other race-connected problems which are prevalent throughout California

seem exacerbated in the somewhat isolated, resort atmosphere of Palm Springs. At the same time, there seems to be a civic attitude that such racial problems are of less concern in this exotic locale. No city in California can ignore the necessity of guaranteeing all its residents full citizenship. This responsibility applies equally to the Indians, Mexican-Americans, and Negroes living in Palm Springs and other small communities, as well as to the residents of the barrios and ghettos of Los Angeles and other major cities.

#### BACKGROUND

For about 35 years, the main available living area for working people of Palm Springs was Indian land adjacent to the downtown business area of the city. Known as Section 14 of the Indian reservation, this square mile of land is bounded by Indian Avenue on the west, Ramon Road on the south, Sunrise Way on the east, and Alejo Road on the North. During the past three decades, this area became the primary residential area for the Negro and Mexican-American population of Palm Springs. This resulted from two main factors:

- the average minority person could not afford to live in any other area of Palm Springs;
- de facto racial residential segregation was prevalent in Palm Springs, as in other parts of California.

When these tenancies first were created and for many years after, the leases of the land from the Indians were limited by federal law to a five-year duration.

Under the tenancy created on the reservation land and approved by the Bureau of Indian Affairs, the tenant



leased the land from the Bureau for a stated price and was then permitted to build or relocate a dwelling place upon that piece of land. The lease further provided that the tenant owned the dwelling place in which he resided and was free at any time to remove the dwelling place from the land.

Homes on the Indian land were equipped with utilities and the majority were built under permits issued by the City Building Department. City Building Inspectors passed on the buildings while they were under construction. Homeowners also paid taxes to Riverside county, based on the value of their residences. House values ranged from \$1,000 to \$8,000.

In 1959, a new federal law distributed the Indian-held land in Palm Springs to individual members of the Agua Caliente tribe. It also provided for 99-year leases on Indian property, rather than the traditional short-term leases. When the new 99-year leases became available, the City of Palm Springs and various real estate developers became interested in the commercial development of Section 14.

Originally, the city planned to use abatement laws to clear Section 14, but conflicting jurisdiction between the city and the Bureau of Indian Affairs frustrated this scheme. Conflicts between the city and the Indians over proposed zoning for this area also arose, following 1959.

Complaints were received by this office, during this period, concerning city redevelopment plans for Section 14. These initially vague complaints concerned possible conflicts of interest and questionable actions of Indian conservators. They also charged over-riding city interest in commercial development of the land, without regard to the interests of current tenants.

Subsequent investigation by the U. S. Department of

the Interior has clarified some of these charges regarding the conservators (see, "The Final Report of the Palm Springs Task Force" United States Department of the Interior.)

The same 1959 law providing for the long-term leases and individual distribution of the Indian land also provided for conservators to protect the individual Indians' interests. In 1964, the City of Palm Springs approached the conservators with a plan to raze Section 14. The city proposed that the Indians -- through their conservators -- terminate the leases or rentals of the land. The city would then clear the land, using city funds.

#### LEGAL METHOD

The city -- to protect itself against any legal action -- asked the conservators to serve notice upon the tenants that tenancy would be terminated within the statutory period of thirty days. The conservators were also to inform the tenants that permits to clear the land would be issued to the city after the tenants were served with the notices.

Testimony was received that the conservators in many instances did not actually consult with the Indian owners of the land concerning the termination of the leases in Section 14. Testimony from several sources indicated that the conservators, in many instances, executed the eviction notices without making a full disclosure to their Indian wards, who were leasing the land. Further testimony indicated that many of the Indians were induced to execute various documents by statements of the conservators that they could lease the land at higher rentals to commercial enterprises.

To date, land cleared in Section 14 has not been leased and stands vacant.

### METHOD OF REMOVAL

The City of Palm Springs moved to raze Section 14 in the following manner:

Once a conservator executed a destruction permit, the city dispatched a demolition crew to knock down the dwellings and stack the lumber and other debris. Then the City Fire Department burned the debris in a controlled fire. Testimony indicated that the city paid little attention to the 30-day requirements set forth in the eviction notices and operated its own demolition plan solely based on receipt of the destruction permits executed by the conservators.

For example: If a conservator gave notice to a tenant to vacate within 30 days -- and at the same time executed a permit to the city, authorizing the demolition and removal of the debris -- the city, acting upon the permit, would burn down or destroy the dwelling in question any time after it had received the permit without actually checking to see whether the time prescribed in the eviction notice had expired.

The city contracted with three separate construction firms for the actual job of demolition: Joe Leonard Construction, Valley Equipment and Sales Co., and, finally, Cal Terra Backhoe Co. The person employed by the city to expedite this project, Don Abercrombie, claimed that the city did not demolish and destroy any occupied dwelling, nor did the city, according to Mr. Abercrombie, have any complaints. This latter statement is disputed by the city manager, who admitted receiving some complaints from occupants whose homes were threatened with sudden destruction. He added that the city was usually able to respond to these complaints. He did not explain the nature of the city's response. The city steadfastly

maintains this position, without clarification.

Joe Leonard, of Leonard Construction Co., indicates that a dwelling which he owned on the reservation land was demolished without notice and that his property inside the dwelling was destroyed and burned.

It should be noted that Lewis Hunt, who was employed by the Valley Equipment and Sales Co. and later became the owner of Cal Terra Backhoe Co., stated that he was threatened with a gun by a Section 14 home-owner when he attempted a demolition. This story was confirmed by Chief of Police Orest Johnson and also by Captain White of the Palm Springs Police Department. This corroborates to some degree the stories of the former tenants of the area that the city was demolishing homes which were occupied and had personal possessions in them.

While the city maintains that all persons living on the land, or known owners of dwellings, received notices that the dwellings would be demolished, the former tenants disagree. A majority of tenants claim that they did not receive 30-day notices, nor 3-day notices, nor any notices.

Many tenants discovered the demolition after the dwellings had been knocked down and their belongings were missing. Among the possessions lost or destroyed were such items as air conditioners, stoves, refrigerators, and clothing. The tenants steadfastly maintain that few of them ever received a notice to vacate their land.

For example: Homer Manning, a member of the City Human Relations Council, was informed by his tenant that his building -- valued at \$8,000 -- was about to be demolished. He was told that a bulldozer was ready to knock down the building. He was able to retrieve some, but not all of his property.



--Mr. Moses Clinton said that his house -- occupied by his son, Harl -- was destroyed without his knowledge while his son was at work. Harl Clinton's personal belongings, along with a stove, refrigerator, furniture, and an air conditioner, were either destroyed or taken from the house.

-- Mr. James Goree said that his house -- valued at \$3,400 and occupied by his sister -- was destroyed without notice. Similarly destroyed was the house of an elderly neighbor, a Mrs. Spilletti, who died following her eviction.

-- Mr. R. L. Lucas, a seventy-seven year old man, received a notice to vacate several dwellings which he owned. He did not believe the notices. The city destroyed five dwellings owned by Mr. Lucas and valued at \$5,100. Mr. Lucas also states that he lost four water tanks, four stoves, four refrigerators, six air conditioners, fifteen beds, and fifteen mattresses. Mr. Lucas depended on a total rental of \$460.00 per month from these units for his support.

-- Mrs. Van Williams received an eviction notice, but disregarded it and took a trip to Los Angeles. When she returned, her house -- valued at \$7,500 -- and all her personal possessions had been destroyed. She had built the home in 1944 and had been a resident of Palm Springs since 1933.

Perhaps the most conclusive evidence of the city's attitude is the fact that the City of Palm Springs kept no official records of the persons displaced and the residences destroyed in Section 14, and could offer no evidence of any attempt at determining that each homeowner and resident had been properly served with eviction notices.

The City of Palm Springs not only disregarded the residents of Section 14 as property-owners, tax-payers, and voters; Palm Springs ignored that the residents of Section 14



were human beings.

A handwritten signature in cursive script, appearing to read "Loren Miller".

LOREN MILLER  
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE  
Office of Attorney General  
THOMAS C. LYNCH  
State Building, Los Angeles  
Tom McDonald

MEMORANDUM TO THE PRESS

FOR RELEASE: 11:00 a.m., TUESDAY, JUNE 4, 1968

The resort city of Palm Springs was charged today with "a classic study in civic disregard for the rights of minority citizens."

This charge highlighted a report on Palm Springs' demolition of its Negro ghetto. The report was released by Chief Deputy Attorney General Charles A. O'Brien in Los Angeles. Deputy Attorney General Loren Miller, Jr., chief of the Attorney General's Constitutional Rights Unit, prepared the report.

The report linked the ghetto destruction to federal accusations of misconduct by conservators for the Agua Caliente Indians.

In Palm Springs, most minority citizens lived on reservation land leased from Indians. The individuals constructed homes on the leased land. The ghetto area -- known as Section 14 -- lay in the heart of Palm Springs and became an area of interest for developers in 1959 when Indian land became available for long-term leases.

According to the Attorney General's report, homeowners who leased lots in Section 14 saw their homes destroyed without notice and their personal property burned. About 1000 people were involved in the eviction and destruction.

The report recommended "that the City of Palm Springs undertake special efforts to correct the problems of inadequate minority housing and the general low level of relations between the city government and the minority residents of Palm Springs."

"The hostility created by the hardship forced on the city's Negro population is not the only problem caused by Palm Springs' clearance of Section 14. The Indians who own the land are also disillusioned, since the land which once produced revenue for them now lies vacant," the report stated.

The report continued, "No city in California can ignore the necessity of guaranteeing all its residents full citizenship. This responsibility applies equally to the Indians, Mexican-Americans, and Negroes living in Palm Springs and other small communities, as well as to the residents of the barrios and ghettos of Los Angeles and the other major cities."

Documented in the report were instances of homes valued from \$3400 to \$8000 which were destroyed by the city without notice to the owners of the impending destruction.

The city contracted with private operators to knock down the dwellings in Section 14. The debris was then burned by the city fire department in a controlled fire. Indian owners were to execute permits to the city to clear the land and then give their tenants 30-day eviction notices. The report states, "The city paid little attention to the 30-day requirements set forth in the eviction notices and operated its own demolition plan solely based on receipt of the destruction permits executed by the conservators.

Exploring the actions of the Indian conservators, the report states that, "The conservators in many instances executed the eviction notices without making a full disclosure to their Indian wards who were leasing the land." It continues, "Many of the Indians were induced to execute various documents by statements of the conservators that they could lease the land at higher rentals to commercial enterprises. To date, the land cleared in Section 14 has not been leased and stands vacant."



The report concludes, "Perhaps the most conclusive evidence of the city's attitude is the fact that the City of Palm Springs kept no official records of the persons displaced and the residences destroyed in Section 14 and could offer no evidence of any attempt at determining that each homeowner and resident had been properly served with eviction notices.

The City of Palm Springs not only disregarded the residents of Section 14 as property-owners, taxpayers, and voters; Palm Springs ignored that the residents of Section 14 were human beings.

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**Saturday, July 18, 2020**  
**Minutes of the Special Meeting of the City Council**  
**of the City of Palm Springs**

Pursuant to Executive Order N-29-20, by Governor Newsom, this meeting was conducted by teleconference and there was no in-person public access to the meeting location.

**CALL TO ORDER:**

A Special Meeting of the Palm Springs City Council was called to order by Mayor Kors on Saturday, July 18, 2020, at 11:00 a.m.

**ROLL CALL:**

**Present:** Councilmembers Grace Elena Garner, Lisa Middleton, Dennis Woods; Mayor Pro Tem Christy Holstege; and Mayor Geoff Kors

**Absent:** None.

**LISTENING SESSION ON POLICING, RACISM, DISCRIMINATION, & RELATED ISSUES:**

Mayor Kors and Councilmember Garner introduced the purpose of today’s meeting, noting that the City Council will refrain from commenting or providing direction to staff as it will be focused on listening to the speakers; advised that the City Council will agendize a follow-up discussion for the City Council meeting of July 23, 2020.

The following individuals provided public testimony and their comments are included in the unofficial transcript hereby incorporated by reference (see **Exhibit A** to this set of minutes):

- |                        |                          |
|------------------------|--------------------------|
| 1. Claire Jordan Grant | 18. Thomas Swope         |
| 2. Michael Wright      | 19. Denise Janssen Eager |
| 3. Wes Ravens          | 20. Raghda Zacharia      |
| 4. Lee Morcus          | 21. Skot J.              |
| 5. Zach Solomon        | 22. Abigail Winston      |
| 6. Carol Listenberger  | 23. Deb Sather           |
| 7. Craig Ewing         | 24. Joy Brown Meredith   |
| 8. David Weiner        | 25. Naomi Soto           |
| 9. Janel Hunt          | 26. Brendan Steindle     |
| 10. Maricruz Osorio    | 27. Juan Espinoza        |
| 11. Lex Ortega         | 28. JoAnne Crawford      |
| 12. Cris Garcia        | 29. Melissa Dolores      |
| 13. Edwin Ramoran      | 30. Ezernal Black        |
| 14. Kathy Weremiuk     | 31. James Cioffi         |
| 15. Rachelle Campbell  | 32. Elizabeth Dolores    |
| 16. Brian Farias       | 33. Clifford Reed        |
| 17. Angie Patrick      | 34. Courtnee             |

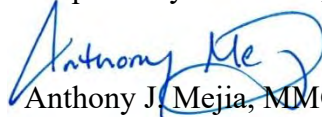
- 35. Susan Smith
- 36. Dottie Wilder
- 37. Doug Evans
- 38. Ginny Foat
- 39. Renee Brown
- 40. Stephen Benson
- 41. Dennis Moore
- 42. Shawnda Faveau
- 43. Dieter Crawford
- 44. David Christian

- 45. Karena
- 46. Carol Davis
- 47. Jilska Chandrasena
- 48. Oron Jackson
- 49. Corrine Griswold
- 50. Karen Joy
- 51. Andrea Romero
- 52. Janel Hunt
- 53. Elizabeth Dolores

**ADJOURNMENT:**

The City Council adjourned at 3:08 p.m.

Respectfully submitted,

  
Anthony J. Mejia, MMC  
City Clerk

APPROVED BY CITY COUNCIL: 09/10/2020

**EXHIBIT A**  
**TO THE MINUTES OF THE PALM SPRINGS CITY COUNCIL**  
**MEETING OF JULY 18, 2020**

**PALM SPRINGS CITY COUNCIL MEETING**  
**LISTENING SESSION**  
**JULY 18, 2020, 11:00 A.M.**  
**UNOFFICIAL TRANSCRIPT**

**CLAIRE JORDAN GRANT:** GOOD MORNING, EVERYONE. SO NICE TO SEE YOU IN THIS WAY. THIS UNUSUAL WAY. I'M SPEAKING THIS MORNING AND I KNOW WE HAVE HAD A LOT OF CONVERSATION ABOUT THIS BUT I WOULD LIKE TO ADD A PERSPECTIVE THAT I DON'T THINK I HAVE HEARD BEFORE. IT IS VERY EASY TO REMOVE THE ACTIONS OF THE PAST FROM THE PAST AND TO APPLY TODAY'S STANDARDS TO THAT AND TO THINK THAT WELL, IT WAS OKAY IN THE PAST. WELL, IT'S NOT OKAY TODAY. IN THE CASE OF SECTION 14 AND THE WAY THE PURGING OF THE MINORITY POPULATION OF PALM SPRINGS WAS HANDLED IN THIS ERA WAS HIGHLY CONTROVERSIAL. IT WAS DEBATED ENDLESSLY. IT WAS TALKED ABOUT FOR DECADES AFTER IT OCCURRED. WE CAN CONVERSE MORE ABOUT THAT BUT I THINK THAT IS A STORY FOR ANOTHER DAY. ON THAT PARTICULAR NOTE, I REMEMBER ONE PERSON, I'M GOING TO SAY IT WAS MARY, BUT I CAN'T SAY THAT FOR SURE. I THINK IT WAS MARY MARGARET, I WOULD HAVE TO CHECK TO SEE WHO SAID THIS. SO, SHE SAID THAT WHILE SHE AGREED THAT SECTION 14 NEEDED TO BE CLEANED UP THAT THE WAY THAT SOB DID IT, AND SHE DID NOT USE THOSE INITIALS AND EVERYONE KNEW SHE WAS TALKING ABOUT FRANK BOGERT, BECAUSE HIS NAME HAD BEEN BROUGHT UP MANY TIMES IN THIS CONVERSATION, SHE SAID THE WAY THAT SOB DID IT WAS REMINISCENT OF SOMETHING THAT WE WOULD HAVE FOUND IN THE DEEP SOUTH AND THAT ENDED THE CONVERSATION. THERE WAS NO MORE DEBATE ABOUT IT AFTER THAT BECAUSE THERE WAS NO ONE WHO DISAGREED WITH THAT. AND IT STUCK WITH ME FOR MANY YEARS AFTER THAT BECAUSE I ALWAYS THOUGHT IT WAS SO STRANGE THAT A PROGRESSIVE LITTLE TOWN LIKE OURS WOULD HAVE THIS DARK HISTORY THAT INCLUDED SUCH A DEEPLY RACIST ACT THAT CAN BE COMPARED TO SOMETHING THAT WOULD HAVE HAPPENED IN ALABAMA OR GEORGIA. I HAVE TO SAY, WHEN I MOVED BACK HERE IN THE EARLY 2000S AND I DROVE BY CITY HALL AND I SAW THE STATUE OF FRANK BOGERT, THE VERY FIRST THING THAT CAME TO MY MIND WAS OH, WOW! THE OLD SOB FOOLED THEM, HE WON. AND SO I JUST WANT TO SUGGEST THAT PERHAPS OLD RACISTS SHOULDN'T GET THE LAST WORD. EVEN IN THE CONTEXT OF HIS OWN TIME, THAT ACT WAS CONDEMNED BY PEOPLE WITH A CONSCIENCE. THANK YOU.

**MICHAEL WRIGHT:** THANK YOU SO MUCH FOR HAVING THIS MEETING. I APPRECIATE THE TIME. I WANTED TO PREFACE THIS BY SAYING THAT I HAVE INCREDIBLE RESPECT FOR LAW ENFORCEMENT. I THINK THAT THEY HAVE AN INCREDIBLY DIFFICULT JOB TO DO. SO MUCH SO THAT I WOULD LIKE TO POINT OUT THAT PUBLIC SAFETY IS ACTUALLY A MULTIFACETED AND VERY COMPLEX ISSUE. SO THERE ARE THREE COMPLETELY DISTINCT FUNCTIONS THAT POLICE OFFICERS ARE RESPONSIBLE FOR, WHICH INCLUDES PUBLIC SAFETY, LIKE WHAT YOU WOULD SEE FROM, YOU KNOW, IF YOU GET A SPEEDING TICKET TO PREVENT PEOPLE FROM SPEEDING ON THE ROADS, FROM PREVENTING DRUNK DRIVING (ALTHOUGH THERE ARE MENTAL HEALTH COMPONENTS TO THIS) AND LAST, VIOLENCE RESPONSE. THESE ARE COMPLETELY DIFFERENT FUNCTIONS. WE ARE EXPECTING THESE PEOPLE WHO HAVE WEEKS WORTH OF TRAINING TO FILL ALL THESE FUNCTIONS AND SIMPLY PUT, IT IS JUST NOT ENOUGH. WE ARE ASKING TOO MUCH OF THESE LAW ENFORCEMENT OFFICERS. WE NEED TO LOOK AT THIS HOLISTICALLY AND THINK

ABOUT HOW WE CAN DEFUND THE POLICE, PEOPLE MISINTERPRET WHAT THAT MEANS. WHAT THAT REALLY MEANS IS TO ACTUALLY DIVEST SOME OF THESE RESOURCES INTO OTHER REALLY CRITICAL PUBLIC SAFETY MEASURES AND WE NEED TO THINK ABOUT THIS AS A BIG PICTURE. I ALSO JUST WANTED TO SHARE A QUICK ANECDOTE ABOUT AN EXPERIENCE THAT WE HAD. SOMEONE MENTIONED JUST RECENTLY THAT NO ONE NOTICED THAT PALM SPRINGS HAS A LITTLE BIT OF A RACIST UNDERTONE. ABOUT FOUR WEEKS AGO, FOUR PEOPLE WHO DISAGREE WITH US POLITICALLY WERE UPSET ABOUT US SPEAKING OUT ON BEHALF OF BLACK LIVES MATTER. THEY SHOWED UP AT OUR DOOR AND THEY TOLD US TO CALL OFF A HIT THAT WE SUPPOSEDLY HAD PUT OUT ON ONE OF THEM. THEY SAID THAT WE SENT FOUR BLACK MEN OVER TO ONE OF THEIR HOMES TO INTIMIDATE THEM. THEY SAID, THEY CAUGHT THIS ON VIDEO AND THAT THEY FILED A POLICE REPORT. WE WERE INCREDIBLY SHAKEN. THIS HAD INCREDIBLE RACIST UNDERTONES. WE CALLED THE POLICE THE NEXT DAY AND THEY SAID THAT THERE WAS NO POLICE REPORT. THAT THIS WAS COMPLETELY MADE UP. WE THEN ASKED IF THEY WOULD PLEASE INVESTIGATE THIS AS WE HAVE VIDEO FOOTAGE TO PROVE THAT THEY WERE AT OUR HOUSE. THE POLICE SAID, THEY DO NOT RESPOND TO THINGS THAT ARE NOT AN ACTIVE CRISIS. THAT TYPE OF RESPONSE DID NOT MAKE US FEEL SAFE. WE NEED PUBLIC SAFETY. INVESTIGATE WHEN SOMETHING LIKE THIS OCCURS. THANK YOU VERY MUCH.

**WES RAVENS:** HEY, GUYS. I'M WES RAVENS. EVERYONE KNOWS I'M A PART OF THE CITY OF PALM SPRINGS AND I WOULD REALLY LIKE TO THANK THE HOST FOR HAVING THIS IMPORTANT LISTENING SESSION. I ACTUALLY POSTED ON MY FACEBOOK, I'M GLAD YOU'RE LISTENING BUT I HOPE THAT YOU ACTUALLY HEAR WHAT WE ARE SAYING. I HAVE BEEN A LONGTIME RESIDENT BUT I'M NOT HOW CAN I SAY IT? A LOCAL, BORN AND RAISED HERE. HOWEVER, BEING HERE FOR SO LONG, I HAVE NOTICED AND I DO KNOW THAT THERE HAS BEEN AN ISSUE OF RACISM AND TO NOT SAY THAT THERE ISN'T WOULD BE A LIE. WE'RE JUST LIKE ANY OTHER CITY. FOR SOME REASON, THE CITY WON'T ACKNOWLEDGE OR ACCEPT THAT IT HAS HAPPENED IN THE PAST AND IT HAPPENS STILL NOW. I AM ACCEPTED HERE BECAUSE I'M A GAY BLACK MAN AND I'M NOT A THREAT. BUT I DO KNOW THAT STRAIGHT BLACK MEN AND STRAIGHT BLACK WOMEN DO NOT FEEL COMFORTABLE HERE AND THEY DO NOT FEEL ACCEPTED HERE. THEY DON'T FEEL WELCOMED HERE. THEY ALWAYS TELL ME, WHEN THEY VISIT, IT WAS A NICE PLACE BUT THERE IS NOT ENOUGH BLACK PEOPLE OR I DON'T FEEL WELCOME. YOU CAN SEE THE DIFFERENCES HOW THEY ARE TREATED VERSUS THE WAY I AM TREATED. AS FAR AS THE BOGERT STATUE AND AS FAR AS OTHER THINGS GO, FOR ME, AS A BLACK MAN, I HAVE TO SEE WHAT MY PRIORITY IS AS FAR AS THIS CITY. FOR ME, A STATUE IS NOT AS IMPORTANT AS ECONOMIC EQUALITY OR FOR THIS CITY TO REALLY FIRSTHAND APOLOGIZE FOR THE ACTIONS OF THAT MAN. THE STATUE, KEEP IT UP. ALSO, PUT A PLAQUE BESIDE IT OF EXACTLY WHAT HE DID, EXACTLY WHAT THE CALIFORNIA STATE'S ATTORNEY GENERAL SAID AT THE TIME, AS IT WAS A HOLOCAUST. ALSO, HONOR AN AFRICAN AMERICAN MAN THAT HELPED BUILD NOT ONLY THE CITY BUT THE COACHELLA VALLEY, LAWRENCE CROSSLEY, BY GIVING HIM HIS FULL NAME ON THE STREET. THIS IS THE ONLY PERSON IN THIS CITY THAT DOES NOT HAVE A SCHOOL NAMED AFTER HIM. IT HAS BEEN A DEBATE FOR YEARS. FOR SOME REASON, THIS CITY WILL NOT ACKNOWLEDGE AND WILL NOT PUT THAT MAN'S FULL NAME ON A STREET SIGN. THAT TO ME WOULD BE A BIG FIRST STEP THAN TAKING A STATUE DOWN. AT THE SAME TIME, LET'S LOOK AT THE DISPARITIES THAT HAPPENED WITHIN THIS COMMUNITY. THE AFRICAN AMERICAN COMMUNITY AND PEOPLE WITHIN THIS COMMUNITY, THEY HAVE A COUPLE OF



OPTIONS HERE. IT IS A TWO CLASS SOCIETY; THOSE WHO SERVE AND THOSE WHO ARE BEING SERVED. EITHER ITS HOSPITALITY OR YOU HAVE TO GO INTO A NURSING SCHOOL. THERE ARE NO OTHER JOBS HERE EXCEPT FOR HOSPITALITY. I BELIEVE THAT IF YOU HAVE MORE ACCESS TO MORE TYPES OF JOBS, THIS IS A DESERT THAT HAS REALLY NICE WEATHER. THERE SHOULD BE ACCESS TO MORE JOBS. THERE SHOULD BE MORE TYPES OF CORPORATIONS HERE. THERE SHOULD BE MORE ACCESS TO BETTER EDUCATION. THE CITIZENS OF DESERT HIGHLAND GATEWAY COMMUNITY SHOULDN'T HAVE TO ASK COUNCIL TO GET A BUS LINE FOR THEIR KIDS TO GET TO SCHOOL. THERE SHOULDN'T HAVE TO BE A MULTIMILLION DOLLAR PROJECT RIGHT ACROSS FROM THE NEIGHBORHOOD AND WE SHOULD ALL HAVE ACCESS TO THIS. YOU BUILT A FENCE AND HAVE TO GO ALL THE WAY AROUND, AT LEAST THREE QUARTERS OF A MILE AROUND, JUST TO ACCESS THAT PROPERTY. ALL THE RESIDENTS OF THE CITY SHOULD HAVE ACCESS TO THAT. THERE IS NOT EQUAL HOUSING IN THE CITY FOR ALL RESIDENTS HERE. WHEN I WAS ON THE COMMISSION, IT WAS REPORTED THAT 80% OF OUR KIDS QUALIFY FOR A FREE OR REDUCED LUNCH. THAT RIGHT THERE IS AN ISSUE. THAT MEANS THAT SOMETHING IS GOING ON HERE. I BELIEVE THAT THE CITY NEEDS TO LOOK AND ACCEPT THAT THERE IS AN ISSUE WITH RACISM. THERE IS AN ISSUE WITH SEXISM HERE. WE ARE JUST LIKE ANY OTHER CITY AND UNTIL WE ACKNOWLEDGE THAT AND UNTIL WE CAN ACCEPT THE PAIN THAT WAS CAUSED HERE AND LISTEN TO THE PEOPLE AND MOVE FORWARD, WE CAN'T MOVE FORWARD. AND THIS CITY REALLY IS A BEAUTIFUL CITY AND I LOVE THIS CITY AND I WOULD NOT BE HERE IF I DIDN'T. HOWEVER, I DO HAVE TO SAY, IF YOU ARE NOT A GAY WHITE MAN, AFTER ABOUT THREE DAYS, YOU DON'T FEEL WELCOME HERE. THAT'S ALL I HAVE TO SAY.

**LEE MORCUS:** COUNCIL, THANK YOU FOR HOSTING THIS CALL. I SEE MANY PEOPLE HERE WHO I HAVE KNOWN FOR DECADES AND WHO I HAVE COME TO LOVE AND RESPECT. I APPRECIATE ALL OF YOU. WE ARE ALL CUSTODIANS OF OUR COMMUNITY. I'M FROM THE MINDSET THAT WE ARE ONE RACE, HUMAN. ONE PEOPLE, AMERICAN, ONE PEOPLE, COACHELLA VALLEY CITIZENS. ONE PEOPLE, PALM SPRINGS RESIDENTS. I HATE THE DIALOGUE WHERE I HEAR A US VERSUS THEM. WE'VE ALL BEEN REFLECTING DURING THIS PERIOD OF TIME, AT LEAST, I HOPE WE ALL HAVE. I CAN CERTAINLY SAY THAT I HAVE BEEN ON A NUMBER OF DIFFERENT LEVELS IN A NUMBER OF DIFFERENT WAYS. I WOULD LIKE TO GIVE ACKNOWLEDGMENT TO CHIEF REYES AND HIS POLICE FORCE. POLICE FORCE TO ME IS A POSITIVE TERM BECAUSE THEY HAVE BEEN A POSITIVE FORCE IN THIS COMMUNITY. THEY HAVE SERVED US WELL FOR DECADES. IT IS AN HONOR TO HAVE YOU IN HERE. YOU ARE TRUE AMBASSADORS FOR THE BEST OF THE CITY OF PALM SPRINGS. I HAVE COME TO KNOW MANY OF THE PEOPLE ON THE STAFF PERSONALLY OVER THE YEARS. YOU HAVE SAVED MY BUTT MANY TIMES AND YOU DESERVE A LOT OF CREDIT FOR THE GOOD WORK YOU DO. AND I THANK YOU FOR IT. FOLKS, THE PAST, IT'S THERE. YOU CAN'T CHANGE THE PAST. FRANKLY GOVERNMENT, AS MUCH AS I RESPECT ALL OF YOU WHO SERVE THIS COMMUNITY, YOU CAN'T LEGISLATE CHANGE. IF YOU COULD, THERE WOULD BE NO CRIME. THERE WOULD BE NO DISCRIMINATION. THERE WOULD BE NO HATE. WE WOULD ALL LIVE IN A UTOPIAN SOCIETY, WHERE EVERYBODY IS HAPPY. THAT IS NOT THE REALITY OF PEOPLE. WHAT WE CAN DO IS OPEN THE CONVERSATION SO PEOPLE START DOING THEIR OWN EXAMINATION AND USE THEIR OWN WORDS IN THEIR OWN MINDS AND THEIR OWN SOULS. THAT IS THE ONE THING I WOULD LIKE TO ENCOURAGE US ALL, FROM MY PERSPECTIVE, TO TAKE AWAY FROM THIS CONVERSATION TODAY. WE ARE IN IT TOGETHER. IT IS FOREIGN TO ME TO TALK ABOUT DIVISION WHEN THE ANSWER LIES IN LOVING UNITY. OKAY? CRIME IS GOING UP. THIS ISN'T THE

TIME TO GET TOUGH ON POLICE AND SOFT ON CRIME. MY BUILDINGS HAVE BEEN VANDALIZED MORE THAN ONCE. THESE HOMELESS PEOPLE, AS MUCH AS I FEEL FOR THEIR FIGHT AND I SALUTE SUPERVISOR PEREZ FOR WHAT HE IS TRYING TO DO TO GIVE PEOPLE HOUSING AND A SYSTEM AND A WAY TO GET THROUGH IT AND OUT OF IT, I THINK THAT IS PART OF THE SOLUTION. BUT GOING SOFT ON CRIME? THIS IS NOT THE TIME FOR IT. CRIME IS GOING UP AND IT ALWAYS DOES WHEN THERE'S ECONOMIC TROUBLE. A CRIME AGAINST ANY OF US, WHETHER IT IS RACIAL, PROPERTY, GENDER PREFERENCE, RELIGION, WHATEVER IT IS, IT IS A CRIME AGAINST EVERY ONE OF US. WE ALL DESERVE TO BE SAFE. AND I'VE HEARD SOME PEOPLE SAY, WELL, A CRIME AGAINST YOUR BUILDING IS NO BIG DEAL, ITS INSURED, IT'S THIS, IT'S THAT. IS NOT THE SAME. KAISER EMPLOYES 100 PEOPLE THAT AREN'T WORKING RIGHT NOW. IT'S A CRIME AGAINST MY STAFF. ITS A CRIME AGAINST THE PEOPLE WE SERVE. IS A CRIME AGAINST OUR COMMUNITY. IT'S A CRIME AGAINST OUR TOURISTS. IT'S A CRIME AGAINST EVERYBODY ON THIS CALL. GRANTED SOME CRIMES MAY BE MORE SEVERE THAN OTHERS BUT CRIME IS CRIME AND CRIME KNOWS NO RACE, CREED, PREFERENCE, COLOR, GENDER, ETC. WE NEED TO BE TOUGH ON CRIME, STAND AGAINST IT, LOOK AT THE CAUSES, DO WHAT WE CAN TO ELIMINATE THOSE AS WELL. BUT HONESTLY, WE LIKE TO THINK WE CAN FIX EVERYTHING. AND WE SHOULD TRY. BUT THERE IS WORK TO DO HERE. AND IT STARTS WITH SAFE STREETS. GIVE ME MORE TIME, I WILL BURN OUT THIS ENTIRE TWO HOUR PERIOD. GEOFF, THANK YOU FOR YOUR SMILE, YOUR WARMTH. I APPRECIATE YOU VERY MUCH. I APPRECIATE YOUR COUNCIL. I APPRECIATE BEING A PART OF THIS CITY. BEEN A LONG TIME. WE ALL HAVE WORK TO DO TO GET DONE TOGETHER. I DO NOT WANT CONVERSATIONS TO FOCUS ON DIFFERENCE IN DIVISION. THEY ARE UNHEALTHY AND UNPRODUCTIVE. THANK YOU FOR LISTENING.

**ZACH SOLOMON:** HELLO, EVERYONE. GOOD MORNING. THANK YOU FOR DOING THIS. IT IS REALLY GREAT TO SEE SO MANY PEOPLE FROM THE COMMUNITY ON THIS MORNING. IT IS PROBABLY MORE NERVE-RACKING TO LOOK AT ALL OF YOU THAN TO HAVE A CITY COUNCIL CALL BUT NONETHELESS, IT IS GOOD TO BE HERE AND TALK TO Y'ALL TODAY. AND I GUESS I WANT TO JUST SAY A FEW THINGS THAT YOU KNOW, FIRST OFF, I THINK IT IS REALLY IMPORTANT THAT RIGHT NOW, ONE OF THE THINGS I'M FEELING IN THIS CONVERSATION IS THAT I WANT TO MAKE SURE THAT WE ARE FOCUSING ON POLICING AND THAT THIS CONVERSATION DOESN'T GET OUT OF HAND WITH OTHER ISSUES THAT MIGHT GET IN THE WAY OF POLICING. CITY COUNCIL DID A LOT OF WORK TO MAKE THIS EVENT HAPPEN. WITH A REALLY SPECIFIC AGENDA ABOUT RACISM AND POLICING AND THE RELATIONSHIP TO POLICING OUT HERE IN THE VALLEY. THERE ARE A LOT OF OTHER TOPICS THAT WE CAN GO INTO AND WILL, WITH CITY COUNCIL. BUT THIS IS A REALLY SPECIFIC PLACE AND I JUST DON'T WANT IT TO GET KIND OF OUT OF HAND AS FAR AS TOPICS GO. THE PURPOSE OF THIS CONVERSATION IS IMPORTANT BECAUSE WE HAVE PEOPLE WHO, YOU KNOW, OBVIOUSLY, I'M WHITE. I'M A MALE. I HAVE NOT HAD ANY FIRSTHAND BRUTALITY EXPERIENCES WITH POLICE HERE. I DO HAVE ONE STORY WHICH IS NOT ABOUT RACIAL INJUSTICE PERSONALLY THAT I'VE EXPERIENCED. BUT IT IS ABOUT MENTAL HEALTH AND THE NATURE OF HOW POLICE REALLY MIGHT NOT BE WELL-EQUIPPED TO HANDLE ISSUES OF MENTAL HEALTH PROBLEMS AND HOW THIS IS AN OPPORTUNITY OF MAYBE LOOKING TO FUND SOCIAL WORK MORE IN PALM SPRINGS. SO, A FEW YEARS AGO, I WAS GOING THROUGH SOME ISSUES WITH DEPRESSION AND UNDIAGNOSED BIPOLAR DISORDER. AND HAD THE POLICE COME TO VISIT ME WHO HAD BEEN TICKED OFF THAT I WAS A RISK OF HARM TO MYSELF. A PRETTY PERSONAL STORY. SO, WHEN THE POLICE OFFICER

ARRIVED, I WAS FORTUNATE THAT HE HAD HAD SOME EXPERIENCE IN THE FIELD WITH THESE KINDS OF ISSUES. BUT THE POLICE OFFICER DID NOT REALLY HAVE THE TOOLS TO BE ABLE TO HANDLE THE SITUATION. AND I FELT THE PRESENCE THAT THERE IS AN OBLIGATION, A LEGAL OBLIGATION OF WHAT HE HAD TO DO IN ORDER TO NOT GET IN TROUBLE. RIGHT? SO, HE WAS TALKING TO ME ABOUT CHRISTIANITY AND LIKE THINGS THAT WERE TOTALLY NOT APPROPRIATE. THIS WAS COMPLETELY PATRONIZING. NOW, I THINK HE WAS A WELL-INTENTIONED POLICE OFFICER, DOING HIS JOB. I ALSO THINK HE IS NOT TRAINED IN MENTAL HEALTH; HE IS NOT TRAINED IN MANY ASPECTS. I WAS LIKE PLEASE DON'T SEND ME TO A FACILITY AGAINST MY WILL. HE ABSOLUTELY SENT ME TO A FACILITY AGAINST MY WILL. COST ME THOUSANDS OF DOLLARS THAT I WAS NOT READY TO SPEND AT THAT TIME. YOU KNOW? SO, IN THIS SITUATION I'M SURE THIS POLICE OFFICER HAD GOOD INTENTIONS AND HE WAS NOT CRUEL OR MEAN BUT HE WAS NOT PARTICULARLY WELL TRAINED. I KNOW PEOPLE WHO ARE WELL TRAINED IN SOCIAL WORK, IN THESE TYPES OF SITUATIONS. AND IF OUR CITY WANTED TO TRY TO BE CREATIVE, TO FIND DIFFERENT WAYS OF HANDLING THESE SITUATIONS. THERE ISN'T GOING TO BE A MANDATE FROM THE COUNTRY OF HOW TO CHANGE OUR RELATIONSHIPS WITH POLICING. THIS IS SOMETHING THAT EACH CITY AND STATE IS GOING TO HAVE TO TAKE THE LEAD ON, AND HOW TO BE CREATIVE ABOUT. SO, IF THIS COUNTRY IS LOOKING TO REEVALUATE WHAT ARE RELATIONSHIP TO POLICING IS. IT WILL BE THIS CITY IN PARTICULAR THAT FINDS OUT WHAT THAT SITUATION IS. SO, SITUATIONS LIKE DEFUNDING THE POLICE A PLACE LIKE SEATTLE OR MINNEAPOLIS, MINNESOTA, THAT THEY HAVE GONE THROUGH, WE ARE FORTUNATE ENOUGH TO HAVE A CITY COUNCIL WITH OUR MAYOR ON IT. IF OUR CITY COUNCIL AGREES ON SOMETHING, THAT MEANS OUR MAYOR AGREES ON SOMETHING. WE DON'T HAVE TO MAKE A PLEDGE; THEY CAN MAKE IT HAPPEN. BUT SIMULTANEOUSLY, OUR CITY IS ALSO OUR CITY. SO, WE HAVE THE PEOPLE HERE WHO ARE READY FOR THE CONVERSATION, WHO ARE READY FOR SOMETHING. BUT THEY MAY NOT BE READY TO DEMAND THE SAME THING THAT SOMETHING LIKE SEATTLE IS. AND, YOU KNOW, I WANT REALLY PROGRESSIVE AND BOLD CHANGES TO THE RELATIONSHIP TO POLICING ACROSS AMERICA. I WANT THE CITY THAT I LIVE IN, PALM SPRINGS, THAT I WAS BORN IN AND BEEN HERE FOR MOST MY LIFE TO BE A PART OF THAT CHANGE. I WANT TO SEE CREATIVE LEADERSHIP FROM CITY COUNCIL. I WANT TO SEE COLLECTIVE DISAPPOINTMENT AND BEING COLLECTIVELY UPSET AND DISAPPOINTED AND ENRAGED. WITH KINDNESS AND OPENNESS THAT I'M SEEING ACROSS THE COUNTRY HERE IN PALM SPRINGS, FRANKLY, IT FEELS STIFLED. YOU KNOW, WE TALKED ABOUT A HISTORY OF SEGREGATION IN PALM SPRINGS HIGH SCHOOL. MY SISTER WENT TO PALM SPRINGS HIGH SCHOOL AT AN AWFUL TIME OF SEGREGATION IN PALM SPRINGS HIGH SCHOOL. THERE IS A HISTORY OF GENTRIFICATION AND PLACEMENT OF DIFFERENT COMMUNITIES AND DIFFERENT PLACES OF THIS CITY. THIS AFFECTS A COUPLE OF STUDENTS AS WELL AND I JUST HOPE THAT YOU ALL TAKE A REALLY HARD LOOK AT IT. SO THAT'S IT. THANKS.

**CAROL LISTENBERGER:** HI. I WAS VERY STRUCK BY WHAT ZACH JUST SAID BECAUSE I AM A RETIREE WHO MOVED HERE AFTER BECOMING RETIRED SO I HAVE NOT BEEN HERE TOO LONG, ABOUT FIVE YEARS. I HAVE NOT HAD ANY PERSONAL INTERACTION WITH POLICE, THANK GOODNESS. I HAVEN'T HAD ANY REASON TOO. NO VICTIM OF CRIME OR ANYTHING. BUT WHAT I HAVE NOTICED AS AN OBSERVER. I LIKE TO GO OUT, MEET PEOPLE IN THE NEIGHBORHOOD. I DON'T DO THAT NOW BECAUSE OF COVID BUT BEFORE THAT, I SPENT A LOT OF TIME AT THE LIBRARY AND I SPENT A LOT OF TIME AT PARKS. I LIKE TO GO DOWNTOWN; I LIKE TO SIT AT COFFEE

SHOPS. SO, I HAVE A LOT OF TIME TO OBSERVE PEOPLE. AND WHAT I HAVE NOTICED THAT IS DIFFERENT ABOUT PALM SPRINGS THAT I WASN'T USED TO FROM WHERE I CAME FROM WAS THAT WE DO HAVE A LARGE HOMELESS POPULATION AND POLICE SHOULDN'T BE THE ONE TO HAVE TO TAKE CARE OF TROUBLES THAT ARISE BECAUSE OF THAT. I HAVE BEEN IN PLACES WHERE I HAVE SEEN STEALING GOING ON AND I SAID SOMETHING TO ONE OF THE EMPLOYEES AND THEY SAID, YES, THIS IS ONE OF THOSE THINGS THAT HAPPENS. AND YOU KNOW WHAT, WE JUST HAVE TO LET IT GO. AND I THOUGHT, THAT IS A SHAME. BECAUSE THAT IS SOMETHING WE SHOULDN'T HAVE TO PUT UP WITH AS A BUSINESS EXPENSE. AND THEN I HAVE SEEN INSTANCES OF DISRUPTIONS WHERE PEOPLE WERE IN OBVIOUS DISTRESS HAD AN ISSUE AND POLICE CAME AS BUT THEY WERE TRYING TO ACT AS THE SOCIAL WORKER. YOU COULD SEE THAT THE POLICE WERE UNCOMFORTABLE, VERY STIFF AND INFORMAL LOOKING. THEY DIDN'T QUITE HAVE THE CARING ATTITUDE YOU WOULD EXPECT FROM SOMEONE WHO TRIED TO CALM DOWN A PERSON WHO IS IN A MENTAL DISTRESS. AND SO, I FELT BAD FOR THE PERSON NEEDING HELP. I FELT BAD FOR THE PEOPLE TRYING TO GIVE HELP. I NOTICED THIS SO MANY TIMES JUST BEING OUT IN THE COMMUNITY, FOR INSTANCE AT SUNRISE PARK. YOU KNOW, THERE WAS THIS HUGE PROBLEM WHERE POLICE HAD TO MOVE IN AND SOLVE IT BUT IT SEEMS LIKE SUCH A WASTE OF POLICING EXPERTISE WHEN THERE SHOULD BE SOME OTHER KIND OF FORCE OR CORP OR WHATEVER YOU WANT TO CALL IT THAT CAN HANDLE THESE SITUATIONS BETTER BECAUSE POLICE ARE TRAINED TO DO LAW ENFORCEMENT AND THIS REALLY ISN'T A LAW ENFORCEMENT PROBLEM. SO, I JUST WANTED TO STAND UP AS AN OBSERVER. I CAN'T SPEAK TO WHETHER I'VE NOTICED ANY RACIAL TIMES WITH THIS BECAUSE I'VE SEEN IT HAPPEN WITH BLACK AND WHITE PEOPLE. LIKE I SAID, I DON'T HAVE A PERSONAL EXPERIENCE. BUT AS AN OBSERVER, I HAVE FELT BAD ABOUT THAT SITUATION. THAT'S ALL I HAVE. THANK YOU.

**CRAIG EWING:** HELLO, MY NAME IS CRAIG EWING. SOME OF YOU KNOW ME AS THE FORMER PLANNING DIRECTOR FOR THE CITY OF PALM SPRINGS. I ALSO SERVED ON THE BOARD OF THE DESERT WATER AGENCY FOR SEVERAL YEARS. I WILL TELL A DIFFERENT PART OF MYSELF, I'M A NATIVE CALIFORNIAN, GERMAN, WHITE KID WHO BENEFITED IMMENSELY FROM THE SYSTEM IN PLACE OVER THE LAST 60 PLUS YEARS HERE IN CALIFORNIA, UNITED STATES. AND IT DIDN'T OCCUR TO ME OVER THE YEARS THAT THIS WASN'T EVERYONE'S BIRTHRIGHT, TO BE ABLE TO WALK OUT ON THE STREET AS A KID, TO GO WANDERING WITH MY BROTHER AND A SACK LUNCH AND MOM'S INSTRUCTIONS WERE TO JUST BE HOME BY 4:00. I NOW HAVE LEARNED HOW THAT IS NOT AN EXPERIENCE SHARED BY MANY, MANY PEOPLE. THAT REVELATION TOOK A LONG TIME TO HAPPEN. BUT FOR ME, IT IS SOMETHING OF A SPIRITUAL LEVEL. AND SO AS A CHAPLIN, I WENT LOOKING AND FOUND THE JONES CENTER FOR RACIAL HEALING, WHICH IS LOCATED IN ATLANTA, GEORGIA. AND PARTICIPATED IN A NUMBER OF CONVERSATIONS WITH PRIESTS. SO, THE JONES CENTER FOR RACIAL HEALING PROVIDED A TREMENDOUS ALTERNATIVE VIEW OF THE WORLD FOR ME. AND IT REALLY CHANGED MY VIEW OF LOCAL GOVERNMENT. AND SO, I PROVIDE THAT BACKGROUND TO THE COMMENT THAT I PROVIDED TO THE COUNCIL AND I WILL READ IT TO YOU, IT'S NOT THAT LONG. I BELIEVE THAT WE NEED TO DEVELOP A NEW CITY MODEL FOR SAFETY SERVICES. INCLUDING POLICE, MENTAL HEALTH SERVICES, HOMELESS SERVICES, NGO, AND NEIGHBORHOODS. THERE SHOULD BE NO DISCUSSION OF DEFUNDING THE POLICE BUT OF CONSTRUCTING A NEW FRAMEWORK OF HOW THE COMMUNITY IDENTIFIES THOSE INTERESTS AND PROVIDES APPROPRIATE SERVICES. THIS FRAMEWORK WILL NEED INFORMATION FROM POLICE, COUNTY MENTAL HEALTH, AND HOMELESS

SERVICES AGENCIES, FOR PROFIT GROUPS, AS WELL AS NEIGHBORHOOD LEADERS ON HOW WE CAN CONNECT WITH EACH OTHER IF WE CAN IDENTIFY WITH FAMILIES, FRIENDS, NEIGHBORS, AND LOCAL GROUPS THOSE AT RISK OF FALLING INTO AGGRESSIVE OR VIOLENT BEHAVIOR BEFORE IT HAPPENS AND ADDRESS THE RISK CONDITION, WE CAN MOVE AWAY FROM IT AFTER THE FACT AND RESPOND. PRESENTLY, THE POLICE ARE THE SOLE RESPONDERS ADDRESSING THE BAD BEHAVIOR AND NOT THE UNDERLYING CONDITIONS. A NEW MODEL OF SAFETY SERVICES THAT PRIORITIZES THE TREATMENT OF LIFE NEEDS OVER PUNISHMENT OF CONSEQUENT BEHAVIOR. I WOULD LIKE TO HELP AND THOSE ARE MY COMMENTS. THANK YOU.

**DAVID WEINER:** HI, EVERYONE. FIRST, I WANT TO THANK THE CITY COUNCIL FOR PUTTING THIS TOGETHER. I THINK IT IS AMAZING THAT WE ARE HAVING THIS DISCUSSION. IN ANY EVENT, I WANT TO TALK ABOUT A COUPLE OF THINGS. FIRST, LIKE CRAIG AND CAROL AND ZACH ALL TOUCHED ON, I THINK WE GET CAUGHT UP IN THIS TERM, DEFUNDING THE POLICE. IN ANY EVENT, I THINK WE ARE GETTING CAUGHT UP ON THIS TERM, DEFUNDED THE POLICE. WHAT WE'RE REALLY TALKING ABOUT IS MAYBE PRIORITIZING WHAT POLICE ACTIVITIES SHOULD BE. WE ALL ARE SPEAKING TO THE FACT THAT POLICE RIGHT NOW ARE SERVING AS MENTAL HEALTH PROFESSIONALS AND PROVIDING SERVICES THAT REALLY DON'T INVOLVE THEM. IN ANY EVENT, THAT WAS THE MAIN POINT I WANTED TO MAKE. I THINK WE ARE JUST TALKING ABOUT LOOKING AT WHAT SERVICES THE POLICE ARE DOING AND SHOULD BE DOING AND SHOULD THEY BE DONE BY OTHER AGENCIES OR OTHER PROFESSIONALS? MAYBE IF WE TAKE THOSE RESPOSIBILITIES OUT OF THE POLICE DEPARTMENT, WE DON'T NEED CLOSE TO 100 SWORN OFFICERS. THE OTHER THING I WANT TO TOUCH ON A LITTLE BIT IS THE STATUE. BECAUSE I WAS THE GUY THAT, FOR WHATEVER REASON, STARTED THAT PETITION BECAUSE I'LL BE VERY HONEST, I JUST DIDN'T THINK GIVEN THE HISTORY OF SECTION 14 AND HOW THE PAST MAYOR WAS INVOLVED IN SOME OF THOSE EVICTIONS, INCLUDING SIGNING EVICTION NOTICES AS A CONSERVATOR FOR TRIBAL MEMBERS THAT OWN THE LAND, IT DIDN'T SEEM RIGHT THAT WE SHOULD BE CELEBRATING HIM IN FRONT OF CITY HALL IF WE WANT CITY HALL TO FEEL LIKE A WELCOMING PLACE FOR ALL OF OUR RESIDENTS. SO, I HAVE KIND OF BEEN ATTACKED FROM ALL ANGLES, THE LEFT AND THE RIGHT ON THIS. BUT REALLY, MY POINT IS MAYBE CITY HALL ISN'T THE BEST PLACE FOR THAT STATUTE TO BE. IT SHOULD BE IN A MUSEUM WITH A DISCUSSION OF WHAT HAPPENED, A DISCUSSION OF THE HISTORY AND IT IS NOT ABOUT ERASING THE HISTORY. IT IS JUST ABOUT PUTTING THE HISTORY IN THE PLACE WHERE IT BELONGS. I DON'T THINK THAT IS IN FRONT OF PALM SPRINGS CITY HALL. I HAVE GOTTEN A LOT OF SUPPORT AS WELL AND JUST TRYING TO DO THIS AS A MEMBER OF THE COMMUNITY. THIS IS MY HOME. I HAVE LIVED HERE FOR 16 YEARS. THANK YOU FOR LETTING ME SPEAK.

**JANEL HUNT:** GOOD MORNING. AS I UNDERSTAND THIS MEETING IS NOT TO JUST FOCUS ON POLICING BUT RACE RELATIONS, DISCRIMINATION. THAT INCLUDES RELATED ISSUES. WITH THAT BEING SAID, THE FIRST THING I WOULD LIKE TO TALK ABOUT IS THE STATUE OF FRANK BOGERT AND SECTION 14. MY GRANNY CAME TO THE RESERVATION IN 1946. ON THAT RESERVATION, THEY WERE NOT ALLOWED OR AFFORDED THE SAME OPPORTUNITIES AS OTHER PEOPLE. MY GRANNY WOULD TALK ABOUT HOW THEIR HOUSES WERE BULLDOZED, THEY HAD TO GRAB WHAT THEY COULD. I HAVE A COUSIN TO THIS DAY WHO WAS NOT ABLE TO RETRIEVE ALL OF HER DOLLS AND SHE STILL COLLECTS DOLLS TO THIS DAY. I DID NOT UNDERSTAND

THE IMPORTANCE OF THAT DOLL COLLECTION TO HER UNTIL I ACTUALLY SPOKE TO HER. SO, WHEN TALKING ABOUT THIS, THE STATUE, WE HAVE TO REMEMBER, THERE ARE DIRECT QUOTES FROM OUR FORMER MAYOR AND CITY COUNCIL PEOPLE. ONE CAME FROM THE JANUARY 19, 1965 "DESERT SUN," WHERE HE TALKS ABOUT THE AREA JUST BEING TRASH. I'M SORRY I HAVE A LOT OF EMOTION BECAUSE THIS EFFECTS MY FAMILY DIRECTLY. AND THEN IT WASN'T UNTIL THE CITY ATTORNEY DECIDED AT THE TIME, MAYBE WE SHOULD DO SOMETHING BEFORE THE NCAA GETS INVOLVED. THEN, WE HAD THE 1968 SECTION 14 CALIFORNIA ATTORNEY GENERAL'S REPORT. NOW, WITHIN THE REPORT, TALKS ABOUT THE LIVING CONDITION, HOW THE EVICTION NOTICES WENT DOWN AND THAT OUR FORMER MAYOR, FRANK BOGERT, THE STATUE THAT IS OUT THERE IN FRONT OF CITY HALL, THAT HE SIGNED, HE AGREED AND HE SAID, YES, CLEAR THE AREA. BECAUSE IT WAS NOT TO BENEFIT THE BLACK PEOPLE THAT LIVED IN THAT AREA. DID THEY CARE ABOUT HOW THOSE FAMILIES WERE DISPLACED? NO, THEY DID NOT. NOT AT ALL. AND I HAVE HEARD A LOT ABOUT HOW CRIME DOESN'T HAVE A COLOR. BUT IT DOES. PEOPLE HAVE BEEN AFFECTED AND IT IS DIFFICULT. IT IS DIFFICULT FOR ME, BEING A BLACK WOMAN. I'M NOT GOING TO SAY AFRICAN AMERICA BUT I'M GOING TO SAY BLACK WOMAN. BECAUSE THAT IS WHAT YOU SEE, THAT IS HOW I SEE AND THAT'S HOW I FEEL. THAT INCLUDES A LOT OF ME. DO YOU REALLY KNOW WHAT IT'S LIKE TO BE INTENTIONALLY FOLLOWED BECAUSE YOU ARE ON PAROLE? AND THEN STOPPED IN FRONT OF YOUR GRANDMOTHER'S HOUSE, YOUR VEHICLE SEARCHED? NO. I HAVE WITNESSED IT, FIRSTHAND. DO YOU KNOW WHAT IT'S LIKE BEING PULLED OVER WITH YOUR BROTHER IN THE VEHICLE, KNOWING THAT, AS A HIGH SCHOOLER, THE ONLY WAY YOU CAN GET OUT OF THE HOUSE WAS TO VISIT YOUR BROTHER, SO HE COULD TAKE YOU TO A PARTY WITH HIM, BEING SURROUNDED BY FOUR POLICE OFFICERS WITH THEIR LIGHTS SHINING ON YOU. TELLING YOU, STAY IN YOUR CAR. WEAPONS DRAWN. I KNOW WHAT THAT'S LIKE. BECAUSE IT HAPPENED TO ME. OR WATCHING YOUR BROTHER PICK UP BEER BOTTLES FROM HIS GRANDMOTHER'S HOME BECAUSE THERE'S A PARTY ACROSS THE STREET. THE BEER BOTTLES ARE IN HER YARD. AND THE POLICE OFFICER TOOK MY BROTHER WHEN HE WAS IN HIGH SCHOOL DOWN TO THE POLICE DEPARTMENT, ARRESTING HIM. KEPT HIM THERE FOR FOUR HOURS AND IT WAS NOT UNTIL A GOOD FRIEND OF OURS, DR. PIQUIONNE SAID, YOU KNOW, GIVE HIM THAT BREATHALYZER TEST THAT HIS MOTHER HAS BEEN ASKING FOR, THEN THEY FOUND THAT HE DIDN'T HAVE A DROP OF ALCOHOL IN HIS SYSTEM. IF YOU WANT TO TALK ABOUT DEFUNDING THE POLICE. WELL, THE POLICE OBVIOUSLY AREN'T GOING TO GO ANYWHERE. LET'S RESTRUCTURE AND GIVE THEM SOME TRAINING THAT IS NEEDED AND WHEN THEY COME TO THOSE NEIGHBORHOOD GROUPS, LET IT BE A GENUINE CONVERSATION THAT THEY WANT TO HAVE. DON'T SEND SOMEBODY OUT THERE BECAUSE THAT'S WHAT THEY HAVE TO DO, IT IS NOT WORTH IT. I WANTED TO JUST TALK ON A COUPLE OF DIFFERENT THINGS BUT IN THAT, I'M GOING TO GO BACK TO SECTION 14. SORRY. I'M RUNNING OUT OF TIME AND I WANTED TO MAKE SURE I HAD ALL THESE POINTS. THE CITY AT THE TIME DIDN'T FEEL LIKE THEY OWED ANYBODY, ANY OF THOSE NATIVES WHO LIVED ON A RESERVATION AT THE TIME AN APOLOGY. IT WAS QUOTED THAT I FEEL LIKE WE DID THE PEOPLE A FAVOR. WE DID THEM A FAVOR AND THAT WAS A DIRECT QUOTE FROM FRANK BOGERT. SO WHEN I DRIVE PAST THAT STATUE, I KNOW I CAN'T EVEN LOOK AT IT. BECAUSE I HAD ALREADY KNOW WHAT THAT STATUE MEANT BECAUSE MY GRANNY, CONNIE CRAWFORD, SHE INSTILLED THAT IN ME, SAID HEY, YOU KNOW WHAT, IT HAS NOT BEEN EASY. IT HAS NOT BEEN EASY EVEN FOR ME AS A BLACK WOMAN. I HAVE A BLACK SON, AND A BLACK DAUGHTER. RAISING A BLACK SON, IS NOT EASY. HE EXPERIENCED DIFFERENT DISCRIMINATION AND STUFF LIKE THAT. IT IS HARD TO SIT DOWN WITH YOUR

SON AND BE STRONG FOR YOUR SON AS HE SEES WHAT IS GOING ON IN SOCIETY AND KNOWING THAT IN A YEAR, I HAVE TO SEND MY CHILD OUT THERE AND I CAN'T BE THERE TO PROTECT HIM BECAUSE HE HAS TO CONTINUE ONTO THAT NEXT CHAPTER. NOT SOMETHING I'M LOOKING FORWARD TO, ESPECIALLY WITH THINGS GOING ON IN TODAY'S SOCIETY. AND IF WE CAN'T FIX WHAT IS HAPPENING IN OUR OWN BACKYARD, IF WE CAN'T CORRECT THE WRONGS THAT HAVE BEEN WRONGED? THIS IS A WASTE OF TIME. THAT'S ALL I HAVE TO SAY.

**MARICRUZ OSORIO:** THERE ARE A LOT OF THINGS TO SAY ABOUT THIS. FIRST, THANK YOU TO CITY COUNCIL FOR PUTTING THIS TOGETHER. IT HAS BEEN LONG OVERDUE. ANOTHER THANK YOU TO COUNCILWOMANS CHRISTY AND GRACE FOR VOTING AGAINST BODY CAMERAS. THEY ARE NOT A GOOD INVESTMENT OF OUR CITY DOLLARS RIGHT NOW, ESPECIALLY WITH SUMMER AND OUR PROBLEM WITH HOMELESSNESS AND ALL THE OTHER ISSUES THAT ARE GOING ON. SO, THANK YOU FOR VOTING AGAINST THE BODY CAMERAS. JUST A POINT OF CLARIFICATION, PALM SPRINGS IS RACIST. I HAVE BEEN TOLD TO GO BACK TO MY COUNTRY MULTIPLE TIMES HERE AND I WAS BORN AND RAISED HERE. I HAVE NEVER KNOWN ANY OTHER PLACE THAN HERE AS HOME. EDUCATIONAL OPPORTUNITIES ARE NOT EQUAL HERE. I HAVE HEARD RACISM FROM WHITE TEACHERS IN PALM SPRINGS UNIFIED SCHOOL DISTRICT. AS A STUDENT, I DIDN'T UNDERSTAND ENGLISH. I HAVE BEEN A SUBSTITUTE TEACHER HERE IN THE PALM SPRINGS UNIFIED SCHOOL DISTRICT AND I HAVE WITNESSED THE TREATMENT OF THESE STUDENTS FIRSTHAND. I WENT TO HIGH SCHOOL HERE AND I WAS THE ONLY LATINA IN MY AP CLASSES. I DON'T THINK THAT IS AN ACCIDENT. I DON'T THINK I AM SMARTER THAN MY OTHER FRIENDS. SO THOSE ARE JUST SOME POINTS OF CLARIFICATION. I WOULD LIKE TO ADD THAT I AM A POLITICAL SCIENTIST AND SO I STUDY RACE AND SOCIAL DIVISIONS AND POLITICAL POWER FOR A LIVING. I WOULD JUST LIKE TO POINT OUT THAT FOCUSING ON UNITY, FOCUSING ON ONE GROUP AS A WHOLE DOES NOT ALLOW US TO SEE WHO IS FALLING THROUGH THE CRACKS. IT DOESN'T ALLOW US TO SEE WHERE OUR RESOURCES NEED TO BE PLACED. SO, BY FOCUSING ON ONE RACE, WE LEAVE PEOPLE BEHIND AND INEQUITIES ARE ALLOWED TO GO ON UNRECTIFIED. SO, WE NEED TO HAVE A FRANK CONVERSATION ABOUT WHERE OUR INCOME INEQUALITY IS AND IF YOU TAKE A LOOK AT A SOCIAL EXPLORER, JUST A DATA MAP, IT'S ALL CONCENTRATED ALONG THE EDGES. THE CENTER OF TOWN IS PROTECTED, DOWNTOWN. AS A LONGTIME RESIDENT, YOU KNOW YOU'LL NEVER SEE A HOMELESS PERSON THERE UNTIL EVERYTHING ELSE IS CLOSED. SO, LET'S, REALLY, I ENCOURAGE MY WHITE NEIGHBORS TO REALLY CONSIDER WHAT WORLD WE ARE LIVING IN. WHY DO YOU THINK THAT IT'S NOT WORTH IT TO NOT GO AFTER THE SHOPLIFTER? THERE ARE BIGGER PROBLEMS HERE, WHY DO THEY NEED TO SHOPLIFT? THAT IS THE BIGGER QUESTION THAT YOU SHOULD BE ASKING YOURSELF. STOP PUTTING A PREFERENCE ON TOURISTS AND PEOPLE WHO ARE JUST HERE TEMPORARILY. THANK YOU FOR THOSE, COUNCILMEMBERS WHO HAVE STARTED TO DO THAT. I REALLY APPRECIATE THIS PHONE CALL. I WILL LEAVE IT THERE. THANK YOU. AND DIVEST MEANS DIVEST AND DEFUND MEANS DEFUND. THANK YOU.

**LEX ORTEGA:** FIRST, I WANT TO DO AN ANNOUNCEMENT AS A PERSON WHO WAS BORN AND RAISED IN PALM SPRINGS. IT WAS MANY YEARS BEFORE I LEARNED THE HISTORY OF THE LAND AND THE PEOPLE WHO TOOK CARE OF THE LAND, THE ANCESTRAL HOME OF THE CAHUILLA PEOPLE. AND I THINK THAT THAT IS A SHAME, RIGHT? I THINK THAT THE REASON WHY WE DON'T LEARN THE HISTORY OF THE LAND IS BECAUSE THIS IS AMERICA. WELL, WE MIGHT NOT WANT TO BELIEVE IT AND IT MIGHT BE HARD TO HEAR, WHITE SUPREMACY IS WHAT THIS COUNTRY WAS

BUILT ON. PLAIN AND SIMPLE. I WANT TO AWKNOWLEDGE THE LAND, I WANT TO AWKNOWLEDGE THE ORIGINAL FOLKS WHO HAVE TAKEN CARE OF THIS LAND FOR CENTURIES. LONGER THAN AMERICA HAS BEEN AROUND. I ALSO JUST WANT TO CONTINUE TO SPEAK ON THINGS THAT THE BLACK FOLKS HAVE SHARED. THE TYPES OF RACISM THAT I HAVE EXPERIENCED MIGHT BE CLASSIFIED AS MICRO AGGRESSIONS. THE TYPES OF THINGS THAT YOU HEARD MARICRUZ SAY, FOLKS ASSUME YOU DON'T SPEAK ENGLISH BECAUSE MAYBE THE WAY YOU LOOK. THAT'S HAPPENED TO ME A COUPLE OF TIMES. THIS IS ALSO LIKE A CONTINUATION OF CONVERSATIONS THAT CAME UP DURING THE DISTRICTING PROCESS, THE PROCESS THAT WE TOOK TOGETHER WITH MANY OF YOU CITY COUNCIL MEMBERS A COUPLE OF YEARS BACK. RIGHT? THAT'S WHY IT WAS IMPORTANT FOR US TO CREATE A MINORITY MAJORITY DISTRICT BECAUSE THE REALITY IS, BECAUSE OF GENTRIFICATION, BECAUSE OF THE ECONOMY, BROWN PEOPLE AND BLACK PEOPLE HAVE BEEN PUSHED OUT. ALL THE FOLKS THAT I KNOW, WHO I GREW UP WITH IN THE GOLDEN SANDS NEIGHBORHOOD AND THE SUNRISE VILLAGE TRAILER PARKS BY COYOTE RUN, NEARLY ALL OF THEM, THEY ALL LIVE IN THE CITY OF CATEHDRAL CITY NOW. THAT IS FOR A REASON. WE ARE BUILDING MULTIMILLION DOLLAR HOUSING PROJECTS WHERE HOUSES START AT \$600,000, \$700,000. WHO CAN AFFORD THAT? TYPICALLY, IT'S USUALLY MOSTLY WHITE PEOPLE. SO, ALL OF THESE ISSUES ARE RELATED. I ALSO AGREE THAT BODY CAMERAS AREN'T NECESSARILY THE WISEST INVESTMENT. AND SIMULTANEOUSLY, THAT IS SOMETHING THAT THE BLACK COMMUNITY HERE LOCALLY HAS BEEN ASKING FOR. SO HOW DO WE HOLD WHAT NEEDS TO HAPPEN NOW, WHAT FOLKS HAVE BEEN ASKING FOR NOW BUT ALSO LOOKING TOWARDS THE FUTURE? LASTLY, YOU KNOW, AS A PERSON WHO IS QUEER, I'VE BEEN REALLY PROUD OF MY CITY FOR STEPPING UP TO THINGS LIKE MARRIAGE EQUALITY AND WANTING TO BE A MODEL. I HAVE HEARD THE RHETORIC COME FROM THE DAIS. MEDIA INTERVIEWS FROM CITY COUNCIL MEMBERS. AND I THINK THAT THAT IS SOMETHING THAT WE CAN CONTINUE TO DO, BE A MODEL WHEN IT COMES TO RACE, WHEN IT COMES TO POLICING. I THINK IF THAT IS SOMETHING THAT WE WANT TO LIVE UP TO, AS A CITY, TO BE A MODEL FOR OTHER CITIES THIS IS A PERFECT CASE TO DO IT. WE HAVE OUR OWN POLICE DEPARTMENT. WE AREN'T BEHOLDEN TO A COUNTY SHERIFF. AND SO, THERE IS A RIPE OPPORTUNITY HERE FOR US TO MAKE THE CHANGES THAT QUITE FRANKLY WILL BE FOR THE REST MY LIFE THAT I LIVE HERE. THIS IS WHERE MY FAMILY IS. SO, I REALLY HOPE THAT ACTION HAPPENS. I AM GLAD WE HAVE HAD THE ACTION WE HAVE HAD SO FAR AND I AM LOOKING FORWARD TO SEEING WHAT COMES IN THE FUTURE. AND I ALSO, YOU KNOW, THANK YOU, CITY COUNCIL FOR DOING THIS. BUT THIS IS ALSO NOT JUST A CITY GOVERNMENT PROBLEM. THIS IS A PROBLEM WITHIN ALL OF OUR BUSINESSES, NONPROFITS, ALL OF OUR SERVICE AGENCIES. SO, YOU KNOW, THIS IS AN OPPORTUNITY FOR ALL OF US TO LOOK INWARD TOO, FIND OUR SPIRITS OF INFLUENCE AND ALSO, BE A PART OF THE CHANGE. THANK YOU.

**CRIS GARCIA:** GOOD MORNING, EVERYBODY. SO I JUST WANT TO TALK ABOUT THIS WHOLE SITUATION WITH THE POLICE BRUTALITY AND POLICE VIOLENCE THAT HAS BEEN HAPPENING BECAUSE I FELT REALLY, PRETTY UPSET WHEN I HEARD ABOUT POLICE VIOLENCE IN MINNEAPOLIS, WHEN IT COMES WITH BLACK PEOPLE BEING TREATED LIKE THIS. BUT THE ONLY ISSUE IS THAT POLICE NEED MORE KNOWLEDGE ABOUT THE LAWS. BECAUSE WHAT I NOTICED IS THAT THEY NEED TO KNOW ALL ABOUT THE LAWS. OF COURSE, POLICE HAVE TO FOLLOW THEIR OWN LAWS, INCLUDING THE AMENDMENTS, FOR EXAMPLE, THE FIRST AMENDMENT, THAT THEY NEED TO BE TAKING IT SERIOUSLY AND ENFORCING ALL THINGS LIKE FREE SPEECH



AND THINGS LIKE THAT. AND I ALSO WANT, FOR EXAMPLE, THE COPS NEED TO TAKE ACTION TO STOP THIS VIOLENCE WHEN IT COMES TO PEOPLE WHO ARE COMMITTING SUCH A MINOR CRIME. SINCE I DON'T KNOW WHY COPS ARE DOING THIS, JUST VIOLENCE AGAINST THESE PEOPLE FOR ONLY COMMITTING JUST SMALL TYPES OF INFRACTIONS. BECAUSE THIS NEEDS TO BE TAKEN SERIOUSLY BUT I KNOW THAT BODY CAMS ARE A GREAT THING, IT WORKS TOWARDS GREAT CHANGE. BUT THE ISSUE IS, WHEN IT COMES TO THE ACADEMIES AND EVERYTHING LIKE THAT, IT IS TOO SHORT, BY THE WAY. I HEARD ABOUT POLICE ACADEMIES BEING AROUND TWO MONTHS OR SOMETHING. BUT IT NEEDS TO BE A LOT LONGER. I HEARD, A LOT OF COUNTRIES WITH A POLICE ACADEMY, THEY HAVE AROUND LIKE TWO YEARS TO BECOME A POLICE OFFICER. BUT IN MY OPINION, I WISH THE POLICE ACADEMY WOULD BRING MORE KNOWLEDGE ON THE LAWS AND EVERYTHING LIKE THAT SO THAT THEY CAN FOLLOW AND TAKE THEM SERIOUSLY WHEN IT COMES TO THE INFRACTIONS AND WHATEVER TYPE OF CRIME THEY COMMITTED. ESPECIALLY SMALL AND BIG CRIMES BUT WHY DO COPS JUST BRING WEAPONS AND EVERYTHING LIKE THAT, FOR JUST COMMITTING SMALL CRIMES? DOESN'T MAKE ANY SENSE TO ME. BECAUSE THIS IS WHY PEOPLE GET REALLY NERVOUS AND PEOPLE GET AFRAID OF COPS. BECAUSE I KNOW, I FELT VERY SAD WHEN I HEARD POLICE VIOLENCE AND EVERYTHING FOR SUCH A SMALL CRIME. THEY DIDN'T DO ANYTHING REALLY BAD BECAUSE I RESPECT BLACKS, I RESPECT PEOPLE OF COLOR. YOU KNOW, EVERYBODY IS WELCOME HERE. I KNOW PALM SPRINGS IS A GREAT CITY AND WE ARE NOT IMMUNE TO RACIAL THINGS LIKE THAT, INCLUDING THE TYPE OF CARE THAT I HEARD ABOUT. IT IS NOT THE RIGHT THING TO SAY TO THE PEOPLE AND EVERYTHING LIKE THAT. BUT MY BIG THOUGHT IS THAT THE POLICE ACADEMY SHOULD MAKE IT A FOUR-YEAR REQUIREMENT TO SERVE. FOUR YEARS IS PRETTY MUCH ENOUGH SO THAT THE POLICE WILL KNOW EVERYTHING ABOUT THE LAWS, INCLUDING THE CONSTITUTION AND THE CIVIL RIGHTS ACT OF 1964 AND TAKE THINGS SERIOUSLY AND OF COURSE BY BANNING DISCRIMINATION, NEEDS TO BE ENFORCED, WHETHER INSTITUTIONAL OR INDIVIDUAL. THEY HAVE TO TAKE THINGS SERIOUSLY ON BANNING DISCRIMINATION AND ONCE EVERYBODY FEELS WELCOME AND TREATED EQUALLY, THOSE ARE MY THOUGHTS.

**EDWIN RAMORAN:** GOOD DAY, EVERYBODY. THANK YOU, MAYOR KORS, MAYOR PRO TEM HOLSTEGE, AND COUNCIL MEMBERS, GARNER, MIDDLETON AND WOODS. THANK YOU, ANTHONY. ANTHONY MEJIA ALWAYS KEEPS IT TOGETHER. THANK YOU SO MUCH. I AM FULL OF EMOTION RIGHT NOW. I THINK A LOT OF US ARE MUTED RIGHT NOW BECAUSE YOU WON'T HEAR THE EMOTION THAT IS ACTUALLY THERE, YOU CAN FEEL IT, RIGHT? IT IS JUST PALPABLE. I HAVE TO SAY AS FULL DISCLOSURE, I DO SERVE ON THE HUMAN RIGHTS COMMISSION AND THE 2020 CENSUS COMMITTEE. I WAS SO PROUD TO BE PART OF THE DISTRICTING PROCESS LAST YEAR. TO BE PART, TO BE BORN AND RAISED IN DISTRICT 1, TO HAVE GRACE GARNER ELECTED TO BE OUR COUNCIL MEMBER IS A HUGE DEAL. I AM ALSO A MEMBER AND COFOUNDER OF AN ORGANIZATION FOR BAYANIHAN DESERT WHICH IS FOCUSED ON HELPING WITH FILIPINO COMMUNITY ENGAGEMENT AND CIVIC DUTIES AND I WANT TO START OFF, STRAIGHT UP I WAS BORN AND RAISED IN VETERANS TRACT, WE KNOW WHAT OUR NEIGHBORHOOD NAME IS. BUT I HAVE A LOT OF COMPLAINTS. I'M SO GRATEFUL THAT I HAVE BEEN UPLIFTED BY OUR CITY COUNCIL, BY OUR COMMUNITY, ALEXIS ORTEGA, DIETER CRAWFORD, WE HAVE BEEN UPLIFTED BY SO MANY OF OUR LEADERS LIKE JARVIS CRAWFORD AS WELL AND THERE ARE SO MANY OF US. BUT I WANT TO GET TO A LOT OF THINGS AND I THINK THIS IS JUST AT THE BEGINNING OF WHAT IS GOING TO HAPPEN IN TERMS OF JUST HOW WE CAN CONSOLIDATE ALL THE DISCUSSION AND FEELINGS AND EMOTIONS. BUT I DO WANT TO JUST GO AND TALK

ABOUT TWO THINGS. I'M IN A CURATOR BY TRAINING AND I HAVE COME INTO LOCAL POLITICS NOW. NEIGHBORHOOD POLITICS. AND I'M LOOKING AT ALL THE STRUCTURAL THINGS THAT ARE HAPPENING AND CHANGES. I WANT TO GET TO TWO WRITERS IN PARTICULAR, I'VE BEEN WRITING ABOUT ARTISTS. I'VE BEEN LOOKING UPON THE PAULO FRIRE, FOR INSTANCE. HE SAID IN HIS BOOK, "TEACHERS AT CULTURAL WORKERS," HE WROTE, THE SO-CALLED STRENGTH OF THE BLOOD TO USE A POPULAR EXPRESSION EXISTS BUT IT IS NOT A DETERMINING FACTOR. JUST AS THE PRESENCE OF THE CULTURAL FACTOR ALONE DOES NOT EXPLAIN EVERYTHING. IN TRUTH, FREEDOM, LIKE A CREATIVE DEED OF HUMAN BEINGS, LIKE AN ADVENTURE, LIKE AN EXPERIENCE OF RISK AND CREATION HAS A LOT TO DO ABOUT THE RELATIONSHIP BETWEEN WHAT WE INHERIT AND WHAT WE ACQUIRE. AND THEN, JUST TO END, I WOULD ALSO LIKE TO BRING IN EDWARDS. HE HAS A HUGE INFLUENCE ON US AND JUST LOOKING OUR PALASTINAIN SIBLINGS. I WANT TO SEE THEM DO WORK WITH OUR SIBLINGS AND THE AFRICAN AMERICANS DESCENDANT, THE NATIVE AMERICAN DESCENDANT, WE NEED TO LOOK AT OUR ASIAN, PACIFIC ISLANDER AND LATINX SIBLINGS WHEN WE DO THIS WORK TOGETHER. THAT IS THE COALILTION THAT WE ARE WORKING ON, THIS IS WHAT HE WROTE, REPRESENTATIONS ARE A FORM OF HUMAN ECONOMY. IN A WAY, AND NECESSARY TO LIFE AND SOCIETY. AND IN A SENSE, BETWEEN SOCIETIES. SO, I DON'T THINK THERE IS ANY WAY OF GETTING AWAY FROM THEM. THEY ARE AS BASIC AS LANGUAGE. BUT WE MUST ELIMINATE SYSTEMS OF REPRESENTATION THAT CARRY WITH THEM KIND OF THIS AUTHORITY, WHICH, TO MY MIND HAS BEEN PRESENT BECAUSE IT DOESN'T PERMIT OR MAKE ROOM FOR INTERVENTIONS AS PART OF THOSE MAKING THESE REPRESENTATIONS. I'LL LEAVE IT THERE AND I CAN'T WAIT TILL WE CAN DISCUSS MORE WITH ALL MY SIBLINGS OUT THERE IN PALM SPRINGS. THANKS.

**KATHY WEREMIUK:** I ACTUALLY WANT TO TALK BUT THE POLICE. I WANT TO TALK ABOUT A COUPLE OF THINGS I'VE SEEN AND HAVE BEEN CONCERNED ABOUT. LIKE LEX ORTEGA WORKED ON THE DISTRICTS TWO YEARS AGO AND IN DOING THAT, I HAD THE OCCASION TO GO TO MULTIPLE COMMUNITIES AND MULTIPLE COMMUNITY MEETINGS. I WENT SEVERAL TIMES TO THE DESERT HIGHLANDS COMMUNITY WHERE WHAT I SAW WAS RUDE INTENTION AND RUDE BEHAVIOR ON THE PART OF THE POLICE TOWARD THE RESIDENTS OF THAT COMMUNITY WHEN THEY RAISED ISSUES OF BEING STOPPED ON THE STREET AND ISSUES ABOUT BEING NOTIFIED IF THEIR CHILDREN WERE IN TROUBLE AT SCHOOL, AS OPPOSED TO JUST HAVING POLICE INTERVENTION. AND I COMPAIRED THAT WITH MY OWN COMMUNITY, WHICH IS ALSO IN DISTRICT 1. IT IS WEALTHIER AND WHITER, MUCH WHITER AND THE POLICE THAT COME TO OUR COMMUNITY MEETINGS ARE RESPECTFUL, POLITE, PLEASANT AND THEY DON'T HAVE TENSION. THAT BEHAVIOR IS A PRIVILEGE I DON'T WANT TO HAVE. I DON'T WANT THERE TO BE TWO TYPES OF TREATMENTS FOR DIFFERENT PEOPLE, REALLY BASED ON RACE. IN THE DISTRICTING PROCESS THAT WE WORKED ON, IT WAS AN ATTEMPT TO BRING THE LATINA, THE BLACK, THE FILIPINO, THE ASIAN COMMUNITIES INTO OUR CITY. AND I THINK WE HAVE DONE THAT. WE STARTED TO DO THAT. THESE DISCUSSIONS, I THINK ARE REALLY A STEP FORWARD BECAUSE WE DID DO THAT. I AM HOPING THAT ONE OF THE THINGS THAT COMES OUT OF THESE DISCUSSIONS ARE A THOROUGH REVIEW OF POLICE PROCEDURES. I HAVE A LOT OF CONCERN ABOUT PEOPLE BEING STOPPED BECAUSE THEY ARE ON PAROLE OR JUST STOPPED BECAUSE THEY ARE BLACK TEENAGERS. I THINK WE HAVE TO LOOK AT WHERE THE POLICE DO THAT, WHAT THEY ARE DOING IT AND WHETHER THOSE THINGS FIT INTO OUR VALUES. THAT IS MY FIRST CONCERN. AS TO WHAT COMES OUT OF THAT, THE REVIEW THAT WE HAVE WILL NEED TO BE

THOROUGH AND OUR POLICE NEED TO BE TRAINED IN A WAY THAT THEY DON'T ESCALATE SITUATIONS LIKE I SAW IN DESERT HIGHLAND AND THAT THEY DE-ESCALATE SITUATIONS. AND WHERE THERE IS SITUATIONS THAT DO NOT REQUIRE SOMEONE COMING IN WITH LETHAL OR THE POSSIBILITY OF LETHAL FORCE, WHICH IS WHAT THE POLICE ARE TRAINED TO USE, THAT WE LOOK AT, ARE THERE AREAS WHERE THAT SHOULD NOT BE A FACTOR IN WORKING WITH PEOPLE WHO ARE IN CRISIS? THANK YOU.

**RACHELLE CAMPBELL:** GREAT, THANK YOU. MY NAME IS RACHELLE CAMPBELL. I'M A NATIVE TO PALM SPRINGS, BORN AND RAISED. FOR 39 YEARS AND ALSO A CITY OF PALM SPRINGS EMPLOYEE, I WORKED WITH THE CITY FOR 23 YEARS. I REALLY WANT TO JUST MAKE A COMMENT ABOUT OUR POLICE DEPARTMENT. OUR CITY POLICE DEPARTMENT IS LIKE NO OTHER. THREE YEARS AGO, WE ALL VOTED FOR LAW ENFORCEMENT AND WITH THESE RESORT CITIES, IT IS NEEDED. WE WOKE UP THIS MORNING AND READ THE NEWS AND THREE OF OUR OFFICERS WERE ASSAULTED BY SOMEONE THAT WAS ON DRUGS AND THAT IS NOT OKAY. IF YOU LOOK AT IT, THE POLICE OFFICERS, THEY ARE THE ONES THAT ARE REALLY TAKING THE ABUSE RIGHT NOW. THEY ARE STILL SERVING THE CITY; THEY ARE STILL WORKING HARD TO PROTECT. 20 YEARS AGO, EVERYONE SAID, OKAY. WE NEED MORE COMMUNITY-BASED POLICING. THAT IS WHAT OUR CITY WANTED. COMMUNITY-BASED POLICING, NEIGHBORHOOD CONTACT. NOW, THEY ARE DEMANDING THAT TO CHANGE. BUT IT IS NOT OF, WELL, LETS HAVE MENTAL HEALTH COME IN AND WORK WITH IT. AS A RESIDENT OF PALM SPRINGS, DRIVING DOWNTOWN WITH MY 12 YEAR OLD NIECE, SEEING HOMELESS PEOPLE DOING DRUGS RIGHT ON THE STREET CORNER AND THEN HAVING TO TRY TO EXPLAIN TO THEM WHAT IS GOING ON. THE HOMELESSNESS IS AN ISSUE. THE POLICE DEPARTMENT IS TRYING TO DO WHATEVER THEY CAN TO HELP WITH IT. IT SEEMS LIKE OTHER AGENCIES WHO AGREED TO HELP WITH HOMELESSNESS, THEY ARE NOT STEPPING UP TO HELP. THAT IS ALL I WANTED TO SAY, THANK YOU.

**BRIAN FARIAS:** I'M GOING TO SAY SOMETHING THAT SOME PEOPLE DON'T FEEL COMFORTABLE HEARING THESE THINGS BUT I AM NOT A RACIST. WHERE I COME FROM, I WAS RASIED POOR, MY PARENTS RAISED 12 KIDS, 12 OF US. THEY BROUGHT US INTO THE WORLD; THE DOCTORS WERE WHITE. OUR BABYSITTER WHEN WE WERE KIDS WAS A BLACK LADY. YOU KNOW, WE ARE MISSING THE POINT OF WHY WE'RE HAVING THIS CONVERSATION RIGHT NOW WITH YOU GUYS. IT KINDA SEEMS THAT POLICE ARE DOING EVERYTHING WRONG AND POLICE ARE RACIST, THE POLICE ARE NOT RACIST. IN FERGUSON, I MEAN IN MINNEAPOLIS, GEORGE FLOYD WAS TRYING TO CASH SOME FAKE \$20 BILL. THEY CALLED THE COPS AND HE DIDN'T WANT TO GET IN THE BACKSEAT OF THE CAR. THEY STRUGGLED WITH HIM, THEY PUT THEIR KNEE ON HIM AND NOW, THEY PROTEST THAT IT'S RACIST. THE GUY WENT TO CASH A FAKE \$20 BILL. AND THE CASE WHEN ALL THIS STARTED, HE WENT TO GET ICE CREAM AT 10:00 AT NIGHT. HE SEES THE MAN AFTER WATCHING THE SHADOW BY THE WALL AND INSTEAD OF HIM WALKING BACK TO THE HOUSE, OR RUNNING AND CALLING THE COPS, THERE'S A MAN OUT THERE WALKING. HE CONFRONTS THIS GUY AND THEY GET IN AN ARGUMENT AND HE GETS SHOT. NOW, THERE IS ANOTHER PROTEST THAT IT IS RACIST. IT IS NOT RACIST. I DON'T DO NOTHING WRONG. I DON'T HAVE NOTHING TO WORRY ABOUT THE COPS. IF A COP STOPPED ME, THE BLUE UNIFORM MEANS SOMETHING. THE CAR WITH BLUE AND LIGHTS MEANS SOMETHING. I STOP, ASK FOR MY DRIVERS LICENSE, WHATEVER THEY WANT TO SEE. HERE IT IS. YES SIR. AND THEY LET ME GO ON MY WAY. NOTHING WRONG. I DON'T RUN. BUT ALL THESE PROTESTERS WE ARE

SEEING RIGHT NOW, YOU KNOW, IN THE MILLIONS, NO PEOPLE SAY, HEY, GUYS, LET'S NOT DO DRUGS. HEY, GUYS, LET'S NOT DO FAKE MONEY. IF THE COPS STOP YOU, STOP. YOU GOT TO KNOW; WE HAVE GOT A BETTER CHANCE IN COURT THAN RUNNING AWAY FROM THE COPS. THE GUY IN WENDY'S, IN ATLANTA, YOU SEE SO CLEARLY ON TV. IF THAT GUY WOULD HAVE NOT RUN FROM THE COP AND GOTTEN A TASER, THAT COP WOULDN'T HAVE BEEN DEAD. AND WE WOULDN'T BE HAVING THIS CONVERSATION. JUST, WELL, ANOTHER COP DEAD. THAT'S WHAT HAPPENS. BUT NO. NOW THE COP SHOT THE BLACK MAN. NOW, WE HAVE GOT PROTESTERS ALL OVER THE PLACE. IN SACRAMENTO, SOME TIME AGO, A GUY WAS BREAKING WINDOWS IN THE CAR IN THE MIDDLE OF THE NIGHT AND THE COP COMES AND THEY CATCH HIM. THEY RUN TO GRANDMA'S HOUSE, HIDES BEHIND THE SHED WHERE HE HAS NO PLACE ELSE TO GO AND HE PULLS OUT HIS CELL PHONE AND A COP SHOT HIM. THEY THOUGHT IT WAS A GUN. SO, THERE IS A BIG PROTEST. THEY CALL IT RACIST. IT IS NOT RACIST IF WE DON'T DO NOTHING WRONG. WE WOULD HAVE NOTHING TO WORRY ABOUT THE COPS. YOU KNOW, I COME FROM A TOWN WHERE IN THE 70s, THEY WOULD SAY, IT IS 7:00. YOU KNOW WHERE YOUR KIDS ARE? IT'S 10:00, YOU KNOW WHERE YOUR KIDS ARE? YOU KNOW WHAT YOUR KIDS ARE DOING? EDUCATION, IT IS BEST TO EDUCATE PEOPLE IN THIS MANNER, MAYBE THE CRIME WILL STOP. BUT I MEAN THESE PROTESTERS ARE OUT THERE, THEY DON'T EVEN KNOW GEORGE FLOYD. THEY'RE OUT THERE PROTESTING JUSTICE BECAUSE THEY SEE THE OPPORTUNITY TO GET INTO STORES, LOOT THE STORES, STEAL AS MUCH AS THEY CAN, TAKE AS MUCH AS THEY CAN AND IF A COP COME AROUND AND BEAT THEM. IF THEY DON'T STOP, THEY HAVE TO TAKE ORDER AND STOP THIS PERSON. STOP. AND I'M A COP, I GOT A BADGE. I HAVE THE RIGHT TO PUT YOU IN JAIL. IF YOU DON'T WANT TO GO TO JAIL? I'M GOING TO DO WHAT I HAVE TO DO. ANOTHER GENTLEMAN, THE COPS STOPPED HIM FOR A TAILLIGHT THAT DIDN'T WORK. HE GOT OUT OF THE CAR, THE COP, WELL, IT WAS GOING TO BE JUST A ROUTINE STOP. THE GUY RUNS, THE COP SHOOTS HIM IN THE BACK, KILLS THE GUY. AGAIN, WHAT IS THIS THING OF RUNNING AWAY? STOP. THE COP, HE JUST WANTS SOME INFORMATION. YOU HAVE GOT A BETTER CHANCE IN COURT.

**ANGIE PATRICK:** OKAY. FIRST OF ALL, JUST LIKE TO SAY, THANK YOU GUYS FOR HAVING THIS MEETING. I DIDN'T THINK I WAS GOING TO PARTICIPATE. I'M NOT A GET UP ON A SATURDAY MORNING TYPE OF PERSON. BUT FOR SOME REASON, I HAD A VERY VIVID DREAM. SO THAT COMPELLED ME TO DO THIS. I'M A LIFELONG PALM SPRINGS RESIDENT. I HAVE BEEN HERE MY ENTIRE LIFE. I LIVE IN THE SAME COMMUNITY, DESERT HIGHLAND GATEWAY ESTATES. RIGHT NOW, I AM LIVING IN MY PARENTS' HOME, THE ONLY HOME I HAVE EVER KNOWN. SO, I DON'T KNOW ANY OTHER PLACE. THERE IS A LOT I CAN SAY, WE HAVE A PAST, WE HAVE A PRESENT, GOD KNOWS, ONLY OUR FUTURE. I LOVE THIS CITY. I THINK WE HAVE A WONDERFUL CITY COUNCIL. GOD BLESS YOU ALL. YOU ARE GREAT PEOPLE. CHIEF REYES IS AWESOME AND THANK YOU CHIEF FOR DOING A GREAT JOB BUT AS SOMEONE WHO HAS BEEN HERE THEIR ENTIRE LIFE AND PALM SPRINGS IS LIKE A TALE OF TWO CITIES. GROWING UP HERE, THE COMMUNITY I GREW UP IN WAS 85%-90% WHITE. YOU COULD SPRINKLE IN ANOTHER 10%, YOU CAN SPRINKLE IN A COUPLE BLACK POPULATION, HISPANIC AND PACIFIC ISLANDERS, ASIAN AND SO FORTH. SO, GROWING UP IN A CITY THAT WAS PREDOMINANTLY WHITE AND HAVING YOUR PARENTS COME FROM A SMALL TOWN IN MISSISSIPPI, THEY WEREN'T ON SECTION 14. A LOT OF PEOPLE IN OUR COMMUNITY COME FROM SECTION 14 AND ENDED UP RESIDING HERE. SO I HEARD THE HORROR STORIES OF IT. EVEN THOUGH I DIDN'T HAVE THAT EXPERIENCE, I STILL HAVE SOME UNCOMFORTABLE

EXPERIENCES WITH RACISM HERE IN PALM SPRINGS. I THINK THE MOST HURTFUL THING FOR ME GROWING UP WAS, YOU KNOW, PALM SPRINGS AND SPRING BREAK WAS THE ULTIMATE, I MEAN IT WAS ALL OVER THE WORLD. THAT WAS THE PLACE TO BE, SPRING BREAK. AND I USED TO GO DOWNTOWN WITH MY FRIENDS AND IT WAS A MIXTURE. YOU KNOW, I HAD A LOT OF WHITE FRIENDS, I HAD THESE FRIENDS, WHATEVER. YOU CAN WALK IN, WHATEVER. YOU WILL BUMP IN TO OTHER AFRICAN AMERICAN STUDENTS AND THEY WOULD LOOK LOST AND CONFUSED AND THEY WOULD ASK ME A QUESTION. I WOULD TELL THEM ABOUT, YOU KNOW, WHERE TO GO, WHAT TO DO AND I WOULD ALWAYS GET THIS REACTION, ALWAYS. WAIT A MINUTE. YOU TELLING ME THERE ARE BLACK PEOPLE THAT ACTUALLY LIVE IN PALM SPRINGS? I SAID YEAH, WE HAVE BEEN LIVING HERE SINCE THE 1950s. AND TO BE IN THE COMMUNITY WHERE PEOPLE DON'T THINK YOU ACTUALLY EXIST, IT'S IMPOSSIBLE FOR YOU TO ACTUALLY RESIDE AND WAS KIND OF HURTFUL. SO, I ALWAYS GOT THIS FEELING LIKE WE WERE LEFT INVISIBLE. WE WEREN'T PART OF THE MARKETING OF PALM SPRINGS, THE AFRICAN AMERICAN COMMUNITY. BUT THAT DIDN'T STOP ME FROM GETTING INVOLVED, AS THE FORMER PRESIDENT OF THE DESERT HIGHLAND GATEWAY ESTATES COMMUNITY ACTION ASSOCIATION I SERVED ON TEN BOARDS THROUGHOUT THIS CITY, MOSTLY AT THE ENCOURAGEMENT OF FORMER MAYOR RON ODEN, AT THE TIME WAS A INSTRUCTOR AT THE COLLEGE OF THE DESERT. HE ENCOURAGED ME TO GET INVOLVED. HAD A VERY AMBITIOUS CAMPAIGN, HE STARTED THE PALM SPRINGS AFRICAN AMERICAN CHAMBER OF COMMERCE. HE PUT HIS HEART INTO IT AND IT WAS SHORT LIVED. THERE WAS ALWAYS A GREAT NEED TO BUILD BLACK BUSINESSES HERE. ALL MY FRIENDS WHO ARE IN BUSINESS, BLACK BUSINESS OWNERS HERE IN THE COACHELLA VALLEY, BORN AND RAISED IN PALM SPRINGS, LIVED IN THIS COMMUNITY. THEY DON'T LIVE HERE ANYMORE IN PALM SPRINGS. EVERYBODY LIVES IN CATHEDRAL CITY, THAT IS WHERE THEY HAVE THEIR BUSINESS OR THEY ARE LIVING IN DESERT HOT SPRINGS AND/OR PALM DESERT BUT IN THE DESERT SOMEWHERE ELSE, SOME DESERT CITY. SO, IT IS A SHAME THAT ALL WE PUT INTO GROWING THAT CULTURE HERE. WHEN WE GET TO AN AGE TO RAISE OUR OWN FAMILY AND OWN OUR OWN HOMES THAT WE GO TO ANOTHER DESERT CITY. NUMBER ONE, IT'S TOO EXPENSIVE FOR MOST OF US TO LIVE HERE. LIKE I SAID, WE STILL FEEL WE ARE LEFT OUT OF THE MARKETING. I'M DOING MY AIR QUOTATIONS OF PALM SPRINGS. AND IT IS TIME FOR US TO STOP BEING INVISIBLE AND LET PEOPLE KNOW THAT WE ARE HERE. I LOVE THIS CITY. I HAVE DONE A LOT OF WORK WITH THE PALM SPRINGS PD. I WAS PART OF THE CITY OF PALM SPRINGS CITIZEN'S POLICE ACADEMY. I'M A GRADUATE, I PATROLLED WITH THEM. I WENT TO A LOT OF MEETINGS. THEY HAVE A TOUGH JOB. BEING A POLICE OFFICER IS SOMETHING, PERSONALLY, I COULDN'T SEE MYSELF DOING. AFTER ONE DAY OF PATROLLING AROUND WITH THEM, I GOT A WHOLE NEW RESPECT. BUT THANK YOU, GOD BLESS EVERYONE, THANK YOU.

**THOMAS SWOPE:** LISTEN, THANK YOU, CITY COUNCIL. THANK YOU, MAYOR, FOR DOING THIS. I'M ACTUALLY A CATHEDRAL CITY RESIDENT. CAME IN AND I WAS GOING TO LISTEN BUT REAL QUICK, I JUST WANTED TO MAKE A COUPLE OF COMMENTS ON A COUPLE OF THINGS. REALLY QUICK, THE STATUE, MOVE IT. IT IS IN FRONT OF CITY HALL AND THAT KIND OF SENDS A MESSAGE, PLAIN AND SIMPLE. I KNOW HOW PEOPLE FEEL ABOUT IT, MOVE IT AWAY FROM THE FRONT. PUT IT ANYWHERE ELSE IN PALM SPRINGS. IN FRONT OF CITY HALL? IT KIND OF SENDS A MESSAGE TO ALL YOUR RESIDENTS AND PEOPLE WHO VISIT HERE THAT KNOW THE HISTORY OF THAT THING. THE MOST IMPORTANT THING I WANTED TO COMMENT ON WAS ABOUT THE BODY CAMERAS. I DID NOT REALIZE THERE WAS A

DEBATE ON THOSE. I JUST WANTED TO SAY, PERSONALLY, AS A BLACK MAN WHO LIVES IN THIS COUNTRY, BASICALLY WITH THE ENVIRONMENT WE ARE IN RIGHT NOW, IF I'M EVER PULLED OVER BY THE POLICE, I WANT EVERY CAMERA AT EVERY ANGLE ROLLING AND RECORDING EVERYTHING. I DON'T KNOW WHY THEY WOULD EVEN BE IN THE DEBATE ABOUT THOSE. TO ME, THAT IS THE EQUALIZER. A LOT OF DEBATES THAT ARE HAPPENING NOW WOULD NOT BE HAPPENING IF IT WASN'T FOR THE BODY CAMERA. I DON'T KNOW WHY THAT IS IN QUESTION. I PERSONALLY FEEL THAT THEY SHOULD BE UTILIZED AND THEY SHOULD NOT HAVE AN OFF BUTTON. THEY SHOULD BE RECORDING AT ALL TIMES TO A CLOUD SO THAT IF WE NEED TO GET TO THE DATA, SOMEONE CAN GET TO IT. THAT IS JUST MY PERSONAL OPINION. IF YOU GUYS ARE DEBATING THAT, PLEASE, TAKE THAT INTO CONSIDERATION. I WANT THE CAMERAS. THAT'S ALL I HAVE. THANK YOU.

[AT THIS TIME, CITY CLERK MEJIA CLARIFIED THAT THE CITY COUNCIL UNANIMOUSLY VOTED TO APPROVE THE PURCHASE OF POLICE BODY-WORN CAMERAS ON JULY 9, 2020.]

**DENISE JANSSEN EAGER:** HI. MY NAME IS DENISE JANSSEN EAGER. I HAVE BEEN LIVING HERE IN PALM SPRINGS SINCE ABOUT 2013. MY FAMILY MOVED FROM WISCONSIN. I HAVE BEEN A SOCIAL JUSTICE ADVOCATE PRETTY MUCH SINCE THE LATE '70s. SO ONE OF THE FIRST THINGS I DID, ARRIVING IN PALM SPRINGS IS I TOOK THE COMMUNITY POLICE ACADEMY CLASS THAT IS OFFERED HERE AT THE POLICE DEPARTMENT. I WAS VERY INTERESTED IN EVERYTHING AND AGREED WITH THE LAST CALLERS, THAT, YES, OFFICERS DO HAVE A ROUGH JOB. I WAS VERY MUCH INTERESTED IN FINDING OUT, WHY ARE THEY THE PEOPLE WHO ARE THE FIRST RESPONDER TO THOSE WHO LIVE HOMELESS? THAT WAS STRANGE TO ME. I STILL DON'T QUITE UNDERSTAND THAT. I FEEL LIKE THERE WOULD BE BETTER USE OF FUNDING THROUGH SOCIAL WORKERS, OTHER AGENCIES IN HELPING PEOPLE WHO LIVE HOUSELESS. I DO SEE THAT THE POLICE DO HAVE A ROLE IN PEOPLE WHO LIVE HOMELESS. BUT THAT IS NOT WHAT I'M HERE TO TALK ABOUT. SO PERHAPS THAT CAN ALSO BE INVESTIGATED. WHAT I WANT TO TALK ABOUT WAS WHEN IN THE DISCUSSION OF USE OF FORCE CAME UP, THE SPEAKERS, THE POLICE OFFICERS SAID, IT WAS BASICALLY A FEW BAD APPLES. IT WAS A SITUATIONAL ISSUE, BASED ON THE OFFICERS. WHEN I BROUGHT THIS TO A ROOM FULL OF PEOPLE, ABOUT WHERE DOES RACISM GO IN POLICING, WHAT ABOUT THAT? AGAIN, I AM A SOCIAL JUSTICE ADVOCATE. THEY BASICALLY SAID, NO. WE DON'T SEE IT. I WAS STRUCK BY THAT. AND I REALLY AGREE WITH THE PREVIOUS CALLERS, WHO HAVE SAID, WE NEED A THOROUGH REVIEW OF POLICING IN PALM SPRINGS, INCLUDING THIS ACADEMY, BECAUSE WE ARE HEARING ONE THING IN THESE ACADEMIES AND YET, WHEN THE SITUATION, THE REVOLUTION THAT HAS OCCURRED THIS PAST SUMMER, WE ARE HEARING THE POLICE CHIEF COME OUT AND SAY SOMETHING TOTALLY DIFFERENT. I AM REALLY CONFLICTED BY THIS. THE OTHER THING I WANTED TO DO WITH THIS REVIEW IS THINGS LIKE, WHY IS THE COVID-19 VIOLATORS HOTLINE ALIGNED WITH THE POLICE DEPARTMENT? I THINK THERE ARE A LOT OF THINGS WITHIN THE POLICE DEPARTMENT THAT THEY ARE DOING WELL. I ALSO THINK THAT THERE ARE A WHOLE LOT OF QUESTION MARKS THAT WE AS A COMMUNITY NEED TO START LOOKING INTO AND SAYING, WHAT IS UP WITH THAT? WHY IS THIS? AND THANKS FOR LISTENING. THAT IS ALL I HAVE TO SAY.

**RAGHDA ZACHARIA:** HELLO, EVERYONE. I WAS NOT GOING TO SPEAK I WAS GOING TO SEND MY EMAILS AND THOUGHTS TO THE CLERK THIS MORNING. BUT I LOVE THIS FORUM AND I CAN TELL THERE ARE A LOT OF INTELLIGENCE AND A LOT OF

PARTICIPANTS, THAT IS MY OWN THOUGHTS. I AM A BELIEVER OF MOVING FORWARD AND FINDING A SOLUTION. MOVING BACKWARDS DOESN'T SOLVE ANYTHING. FOR THE LONGEST TIME, I HAVE BEEN THINKING OF A SOLUTION BECAUSE WORDS HAVE A HUGE POWER. SO, MY THOUGHTS, JUST WANT TO LET YOU KNOW, I'M AN IMMIGRANT, MOVED HERE 37 YEARS AGO, RAISED THREE KIDS. I HAVE GONE THROUGH EVERYTHING, I HAVE HAD NEW JOBS, MOVED TO PALM SPRINGS TWO YEARS AGO FROM A SMALLER TOWN BY PALM SPRINGS AND I JUST BELIEVE THE POWER OF WORDS. FOR INSTANCE, WHY DON'T WE TAKE THE LABELING OFF OUR VOCABULARY? BECAUSE THE MINUTE YOU STATE CERTAIN WORDS, IT ALREADY CREATES HOSTILITY. IT CREATES DIVISION. IT MAKES YOU FEEL INTIMIDATED. WE ARE ALL ONE COMMUNITY. WE ARE ALL AMERICAN. WE ARE ALL IN PALM SPRINGS. SO, TAKE THE LABELING OUT AND THAT WILL REDUCE RACISM. BECAUSE IF SOMEBODY COMES AND TALK IN MY FACE, WHICH HAPPENED TO ME IN THE PAST, NOT TODAY. I WAS STILL ASKED, WHERE ARE YOU FROM? I HAVE THE PERFECT SOLUTION, ANSWER FOR THAT. SO, I HONESTLY JUST WANT TO SHARE WITH YOU A RECENT EXPERIENCE. I ATTENDED ALL THE MARCHES IN PALM SPRINGS JUST TO EDUCATE MYSELF. AND I CAN TELL YOU, I AM 61. I CAN TELL YOU, THERE'S A LOT OF HISTORICAL MISINFORMATION THAT HAS BEEN SHARED WITH THOSE YOUNG ONES. A LOT OF HOSTILITY WITH THE WORDING IN THAT FACILITY. SO, AFTER ALL OF THAT, I DID APPROACH A YOUNG SPEAKER AND I APPROACHED TWO OTHER PROMINENT SPEAKERS AND ONE OF THEM LIVES HERE IN PALM SPRINGS. I JUST SAID, I HAVE A SUGGESTION FOR YOU. I UNDERSTAND THE ISSUE BUT WHAT ABOUT IF WE STOPPED LABELING? WHAT DO YOU THINK? DO YOU THINK THAT IS GOING TO REDUCE THE HOSTILITY AND MAKE EVERY PERSON AWARE THAT WE ARE A VALUABLE HUMAN BEING, WE ARE ALL ONE COMMUNITY AND MOVE FORWARD? I ASSURE YOU; YOU SHOULD SEE THE LOOK ON THEIR FACE. ACTUALLY, A SPEAKER WHO IS PROMINENT LOOKED AT ME AND SAID, WELL, THAT'S ALL WE WANT TO DO, TO BE EVEN? I SAID, YOU'RE NOT GOING TO BE EVEN IF YOU KEEP USING DIFFERENT WORDS AND PUT YOURSELF IN DIFFERENT BOXES. I'M GOING TO START THE MOVEMENT, HASHTAG, NO LABELING AND SEE WHERE IT GOES. THE OTHER SITUATION IS, I WANT YOU TO KNOW, I COME FROM A WAR COUNTRY. I AM NOT JUST TALKING JUST OUT OF MY HAT. I'VE EXPERIENCED WAR, I'VE EXPERIENCED RACISM AND HARDSHIP. I AM VERY THANKFUL TO COME HERE AND WORK HARD AND ESTABLISH A LIVING. THE LAST THING, I HONESTLY THINK THAT COMMUNICATION ENDS THE WORDING FOR SOME OF THE COUNCIL, THROUGH CITY HALL, IT IS CAUSING DIVISIONS WITHIN OUR OWN COMMUNITY. WHO ARE WE? WHAT IS OUR EXPERIENCE? WHAT IS OUR BACKGROUND? COMMENT ON THE POLICING? OR ASK THE POLICE WHAT THEY'RE DOING, WHAT THEY'RE NOT DOING? I MEAN I AM AN IMMIGRANT; I WANT THE SAME THINGS YOU DO. STOP LABELING ME, STOP LABELING EVERYONE AND BY YOU ATTACKING THE POLICE, MY OPINION, SOME OF THE WORDS I HAVE HEARD IS, YOU ARE REALLY ENCOURAGING THE YOUNG LIVES TO DISRESPECT THE POLICE OFFICERS. WHEN I SEE A POLICE OFFICER IN A BLUE UNIFORM, THERE IS A RESPECT. WHEN I TALK TO MY TEACHER, I RESPECT BECAUSE I KNOW THEY HAVE AUTHORITY AND THAT THEY CAN INFLUENCE. SO, LETS JUST GET RID OF LABELING. I CHALLENGE A COUPLE OF YOU TO GET IN THE CAR AND WORK AS A POLICE OFFICER FOR A WEEK. THEN, I WILL SEE WHAT YOU SAY ABOUT POLICING. THANK YOU AND I'M VERY GLAD FOR THIS FORUM. AND I HOPE THAT THE CITY COUNCIL WILL NARROW THEIR SUBJECTS BECAUSE, IF YOU KEEP DEFINING US BY WORDS, IT IS GOING TO BACKFIRE. THANK YOU, ENJOY YOUR AFTERNOON.

**SKOT J.:** HI, EVERYBODY. THANK YOU FOR HOSTING THIS LISTENING SESSION. I AM FAIRLY NEW TO THE PALM SPRINGS AREA. I JUST MOVED HERE LAST YEAR AND I COULDN'T BE HAPPIER TO BE HERE. WITH THAT BEING SAID, AS A NEW RESIDENT, I CAN'T REALLY SPEAK TO THE HISTORY OF THE LOCAL SITUATION HERE THAT IS BEING DISCUSSED. BUT I WOULD JUST LIKE TO MAKE A COUPLE OF POINTS REALLY QUICKLY. ONE, ABOUT THE POLICING AND SUGGESTING THAT THEY BE DEFUNDED OR MAYBE LOOK AT DIFFERENT WAYS OF RESPONDING TO CALLS WITH MENTALLY ILL PEOPLE OR HOMELESS PEOPLE. I HAVE A SISTER WHO WAS FORMERLY A POLICE OFFICER IN ANOTHER STATE AND SHE SAID THAT THEY ACTUALLY HAD SOCIAL WORKERS THAT WENT ALONG WITH POLICE OFFICERS ON CALLS WHERE THERE WERE KNOWN PEOPLE WHO WERE EITHER, YOU KNOW, THEY OFTEN WERE ROUTINE CALLS FOR PEOPLE WHO ARE MENTALLY ILL OR HOMELESS. AND SO, THEY WOULD BRING SOCIAL WORKERS ALONG TO DE-ESCALATE THE SITUATION. THAT WAY, IT DID NOT REQUIRE ANY SORT OF WEAPONS BEING DRAWN ON BEHALF OF THE POLICE. BUT THE SITUATION IS THAT BECAUSE THE PERSON THEY ARE DEALING WITH CAN OFTEN HAVE A WEAPON OR BE A DANGER TO THEMSELVES OR OTHER PEOPLE, A SOCIAL WORKER IS ILL-EQUIPPED TO DEAL WITH THAT ON THEIR OWN. SO, THIS CANNOT JUST BE AN EITHER-OR SITUATION. YOU CAN'T HAVE JUST SOCIAL WORKERS RESPONDING TO THESE TYPES OF CALLS. POLICE NEED TO BE THERE SORT OF AS A BACKUP. I THINK PEOPLE NEED TO BE CAREFUL ABOUT LOOKING AT THIS AS AN EITHER-OR SITUATION. AND THEN, ONE OTHER THING I WOULD LIKE TO MENTION IS THAT, YOU KNOW, I ALSO, YOU KNOW, CAN'T REALLY SPEAK TO RACISM, BEING A WHITE GUY BUT ALTHOUGH, I HAVE WITNESSED IT WITH MY FRIENDS. I GUESS I DON'T CONSIDER MYSELF A, QUOTE UNQUOTE, TYPICAL WHITE GUY IF YOU WILL. EVEN THOUGH I WAS BORN IN ARKANSAS, WHICH EVERYBODY CAN MAYBE INSERT THEIR OWN STEREOTYPE THERE AS THEY WISH. A VERY SMALL TOWN, LESS THAN 700 PEOPLE. AND THE ONLY BLACK MAN IN THE WHOLE TOWN WAS THE TOWN DOCTOR WHO BASICALLY GAVE BIRTH TO ME, I MEAN HE DIDN'T GIVE BIRTH TO ME BUT HE HELPED ME COME INTO THIS WORLD. OVER TWO MONTHS PREMATURE AND I WOULD HAVE DIED HAD IT NOT BEEN FOR HIM. HE WAS OBVIOUSLY THE MOST INTELLIGENT MAN IN TOWN. BUT, YOU KNOW, THAT SORT OF SENT ME ON A COURSE IN MY CHILDHOOD THAT EVEN FROM AN EARLY AGE, I TOOK AN INTEREST IN OTHER CULTURES AND OTHER TYPES OF PEOPLE BESIDES THE FAMILY THAT I GREW UP IN, EVEN THOUGH, I HAVE TO ADMIT, I WAS RAISED IN A VERY RACIST COMMUNITY THAT, YOU KNOW, IT WAS CLEARLY A RACIST ENVIRONMENT THAT I WAS RAISED. I WAS ABLE TO OVERCOME THAT BECAUSE MY INTEREST. I ACTUALLY WENT ON TO MAJOR IN ANTHROPOLOGY AND STUDIED CULTURES AROUND THE WORLD. AND EVENTUALLY, I WENT ON TO WORK AS A SOCIAL WORKER AT THE HOSPICE, AS A CAREGIVER AND I HAVE WORKED FOR, YOU KNOW, I TOOK CARE OF THOUSANDS OF PEOPLE AND I HELPED ABOUT 5,000 PEOPLE DIE, GO THROUGH THE DYING PROCESS. WHEN YOU ARE HOLDING SOMEBODY IN YOUR ARMS OR SOMEBODY IS IN NEED, THEY NEED FOOD OR SHELTER OR MEDICINE OR THEY ARE DYING AND YOU ARE HOLDING THEM IN YOUR ARMS, RACE IS THE LAST THING ON YOUR MIND. TRULY, AT LEAST IT WAS FOR ME. AND SO I WOULD JUST LIKE TO SAY THAT, YOU KNOW, I KNOW THAT IT IS A HOT-BUTTON TERM TO USE REVERSE RACISM. IT GETS A LOT OF PEOPLE FIRED OR CANCELED. I WOULD JUST LIKE TO SAY THAT I WOULD LIKE TO PUT IT OUT THERE, DON'T ASSUME BECAUSE I'M AN OLD WHITE GUY, I'M A WHITES SUPREMACIST AND I AM RACIST. ALL OF US NEED TO LOOK MORE THAN SKIN DEEP AND LOOK AT THE PERSON INSIDE. AND JUST AS A VERY RECENT ANECDOTE, YESTERDAY, I LIVE IN A MOBILE HOME PARK IN SOUTH PALM SPRINGS WITH ABOUT 200 UNITS HERE. MOSTLY WHITE. THERE ARE A FEW BLACK PEOPLE WHO LIVE HERE. I DON'T KNOW IF THERE IS ANY LATINOS OR NOT. WE



HAD THE TREE TRIMMING CREWS COME THROUGH AS THEY DO EVERY YEAR, APPARENTLY, TO TRIM THE PALM TREES. YOU KNOW, LATINO MEN WORKING ON THIS TREE TRIMMING CREW. AND WHEN THEY CAME TO MY HOUSE, MY HOME, I SET OUT AN ICE CHEST OF ICE, SOME ICED TEA AND SOME WATER AND A BIG BOWL OF SOME SLICED WATERMELON. AND, YOU KNOW, IT WAS JUST YOU COULD SEE A SMILE ON THEIR FACES, EVEN THOUGH EVERYONE WAS WEARING MASKS AND THEY WERE ALL WEARING MASKS. AND YOU COULD TELL THAT JUST, THAT KIND GESTURE MEANT SO MUCH TO THEM. I CAN ALMOST GUARANTEE YOU THAT I AM THE ONLY PERSON IN THIS WHOLE PARK OF 200 PEOPLE THAT MADE SOME SORT OF GESTURE FOR PEOPLE WORKING IN 110 DEGREE HEAT TRIMMING THEIR STUPID PALM TREES. I WOULD LIKE TO END ON THE NOTE THAT, I JUST WANTED TO MAKE SURE THAT EACH ONE OF US COULD BE THE CHANGE WE WANT TO SEE IN THE WORLD. THANK YOU.

**ABIGAIL WINSTON:** HI. I AM NEW TO PALM SPRINGS. SO, I CANNOT SPEAK TO THE HISTORY. I AM WHITE, SO I CAN'T SPEAK TO HOW THE MINORITY COMMUNITY FEELS HERE BUT I HAVE HEARD A LOT OR SOME OF HOW THEY FEEL, NOT A LOT ACTUALLY, IT'S BEEN MOSTLY I THINK THE MAJORITY WHITE COMMUNITY THAT HAS BEEN SPEAKING. BUT I JUST WANT TO SAY WHAT I HAVE HEARD IS THAT THEY FEEL AFRAID OF THE POLICE AND MINIMIZED IN THE COMMUNITY. AND I APPRECIATE THE CITY COUNCIL DOING WHAT THEY HAVE DONE AND HAVING THIS LISTENING SESSION. BUT I THINK, WE AS PEOPLE IN AMERICA NEED TO START TO REFLECT ON THE FACT THAT, YOU KNOW, RACISM MAKES US FEEL BAD, ESPECIALLY WHITE PEOPLE THAT WE COULD BE RACIST. BUT THE PROBLEM IS NOT US, INDIVIDUALLY. RACISM EXISTS IN THE SYSTEMS. THIS IS SOMETHING THAT, HOPEFULLY THIS CITY COUNCIL CAN ADDRESS IN A MORE SPECIFIC WAY, HOPEFULLY. AND SO, I DON'T KNOW HOW, I DON'T KNOW THE SOLUTION. BUT I THINK THAT INVITING THOSE PEOPLE WHO FEEL DISENFRANCHISED AND WHO FEEL AFRAID OF THE POLICE INTO THE CONVERSATION AND REALLY DIGGING INTO WHAT THEY WOULD LIKE TO SEE IS WHERE WE SHOULD BEGIN. AND THEN, AS FAR AS US WHITE PEOPLE, WHAT WE SHOULD BE DOING IS UNDERSTANDING THAT WE ARE ALL A PART OF THIS. AGAIN, THIS STATUE SEEMS TO BE A MINOR ISSUE. BUT ACTUALLY, NOT RECOGNIZING WHAT HAS HAPPENED IN THE PAST AND NOT APOLOGIZING FOR IT AND NOT BEING ABLE TO MOVE FORWARD FROM THERE, I THINK, IF YOU WERE THE PERSON THAT WAS AFFECTED, YOU WOULDN'T THINK IT WAS MINOR. AND SO THAT IS SOMETHING ALSO THAT WE CAN ALL DO. AND I WOULD SUGGEST WE DO IT. I LIKE PALM SPRINGS. I HAVEN'T BEEN HERE VERY LONG. I WANT TO BE A PART OF THE COMMUNITY BUT I WANT TO FEEL LIKE WE ARE ALL THE SAME COMMUNITY. AND I THINK WE HAVE TO DO THAT TOGETHER. THAT IS ALL.

**DEB SATHER:** HI, MY NAME IS DEB. I'M A LONGTIME RESIDENT OF THE PALM SPRINGS AREA. I DID LIVE IN CATHEDRAL CITY FOR A SHORT TIME. BUT I HAVE LIVED IN PALM SPRINGS FOR THE MAJORITY OF MY 27 YEARS HERE. I DO WORK FOR THE SCHOOL DISTRICT AND I HAVE HAD MULTIPLE INTERACTIONS WITH THE POLICE DEPARTMENT. ALL OF WHICH HAVE BEEN MOSTLY POSITIVE. I HAVE WORKED WITH SOME STUDENTS WHO HAVE EMOTIONAL DISABILITIES THAT ARE ABUSIVE TO THE SCHOOL STAFF AND I HAVE ALWAYS SEEN POSITIVE INTERACTIONS BETWEEN THE POLICE DEPARTMENT AND THE STUDENTS THAT WERE IN NEED. THESE STUDENTS NEEDED A LOT OF HELP AND THE POLICE DEPARTMENT WAS VERY UNDERSTANDING. I TOTALLY SUPPORT OUR PALM SPRINGS POLICE DEPARTMENT AND BELIEVE THAT MAYBE THEY DO NEED SOME ADDITIONAL SUPPORT THROUGH THE CITY COUNCIL. IN THE AREAS OF ADDITIONAL STAFFING, NOT CUTTING OF POSITIONS, NOT REMOVAL

OF POSITIONS OR REMOVAL OF FUNDING, BUT MAYBE SOME ADDITIONAL FINANCIAL SUPPORT TO INCREASE STAFFING IN THE AREAS OF SOCIAL WORKERS AND INSTEAD OF REMOVING WHAT WE ALREADY HAVE. LET'S ADD TO IT, LET'S BUILD AND PROVIDE THAT ADDITIONAL SUPPORT TO THE CITIZENS. MY OTHER CONCERN, THAT I CAN DRIVE DOWN THE STREET, TWO BLOCKS FROM MY HOME. I LIVE IN A GREAT NEIGHBORHOOD. I LOVE IT. IT IS MULTICULTURAL. IT IS MULTIRACIAL AND ABSOLUTELY LOVE THIS NEIGHBORHOOD BUT I CAN GO TWO BLOCKS AWAY AND FIND SOMEBODY SMOKING THEIR CRACK PIPE OR NOT JUST CASUAL USE OF MARIJUANA BUT HARD DRUGS. THOSE POLICE NEED TO BE OUT THERE, BEING SUPPORTED AND NOT CUT DOWN BY OTHER CITIZENS OR CITY COUNCILMEMBERS. I STRONGLY SUPPORT THEM. I BELIEVE THAT THEY ARE DOING A FINE JOB. THAT IS ALL I HAVE TO SAY, THANK YOU.

**JOY BROWN MEREDITH:** GOOD AFTERNOON, EVERYONE. MY NAME IS JOY BROWN MEREDITH. I MOVED HERE TO PALM SPRINGS IN 1978. I LOVE LIVING IN THIS COMMUNITY. IN 1997, I JOINED THE POLICE ADVISORY BOARD. I AM STILL ON THE BOARD WITH A LOT OF OTHER GREAT COMMUNITY MEMBERS THAT REPRESENT MANY DIFFERENT COMMUNITIES. I ALSO AM THE MOTHER AND GRANDMOTHER AND MOTHER-IN-LAW OF SOME PEOPLE IN THE COMMUNITY THAT I HAVE SEEN WITH MY OWN EYES, THAT THEY HAVE BEEN TREATED DIFFERENTLY THAN I HAVE BEEN TREATED. MY GRANDDAUGHTER RECENTLY, WHO IS BIRACIAL, SHE WAS WITH HER MAN AND TWO CHILDREN IN THE CAR AND THEY WERE PULLED OVER BECAUSE OF A TAILLIGHT AND THEY WANTED THE IDENTIFICATION OF HER MAN IN THE BACKSEAT. HE WAS A BLACK MAN. SHE CALLED ME DURING THIS POLICE STOP AND SHE WAS HORRIFIED. SHE WAS SO FRIGHTENED AND I WAS VERY SAD TO HEAR THAT TONE IN HER VOICE. SHE HAD TO HAVE THAT KIND OF FEAR RIGHT THERE. SHE WAS JUST LEAVING WORK AT JOY OF LIFE AND THEY WANTED TO KNOW WHAT SHE WAS DOING THERE. WHAT WAS SHE DOING IN THE NEIGHBORHOOD? IT TURNED OUT OKAY, SHE WENT HOME. MY SON-IN-LAW, HE WAS PULLED OVER LAST YEAR. THIS WAS NEAR TARGET. THEY SAID THAT HE HAD A DIM TAILLIGHT, ALSO, AN AFRICAN AMERICAN MAN. SOMEBODY THAT I TRUST MY LIFE WITH, BY THE WAY, AND, ALTHOUGH THERE WAS NO VIOLENCE INVOLVED, IT WAS A VERY HORRIFYING EXPERIENCE THERE AS WELL. NOW, I AM A GREAT SUPPORTER OF THE PALM SPRINGS POLICE DEPARTMENT. BUT THAT DOES NOT MEAN THAT THERE AREN'T INSTANCES WHERE PEOPLE ARE TREATED DIFFERENTLY BECAUSE OF THE COLOR OF THEIR SKIN. AND I WANT TO TELL YOU THAT IT IS POSSIBLE TO SUPPORT BLACK LIVES MATTER AND TO SUPPORT THE POLICE DEPARTMENT. THESE DO NOT HAVE TO BE THINGS THAT ARE SEPARATE FROM EACH OTHER. WE NEED TO LOOK DEEPER AND MAKE SURE THAT EVERYBODY IS BEING TREATED FAIRLY. IT SHOULD NOT MATTER WHAT THE COLOR OF THEIR SKIN IS AND I THINK THAT IS A PRETTY JUVENILE STATEMENT FOR ME TO EVEN MAKE. OF COURSE, THAT SHOULDN'T MATTER. BUT IT DOES. WHEN I GO TO THE DESERT HIGHLAND COMMUNITY'S NEIGHBORHOOD MEETING AND I AM HEARING A MAN TELL ME, OR TALK ABOUT THAT HE HAD TO CALL AN AMBULANCE FOR HIS FATHER BECAUSE HIS FATHER FELL AND HIT HIS HEAD. THEN HE WAITED, HE LOOKED OUTSIDE. HE COULD SEE THE AMBULANCE DOWN THE STREET. BUT THE FACT OF THE MATTER IS, THE AMBULANCE DOES NOT COME THERE WITHOUT A POLICE ESCORT. NOW, I DON'T KNOW ABOUT YOU BUT THAT IS NOT OKAY. I REALIZED THAT THAT NEIGHBORHOOD MAY BE VIEWED UPON AS A CRIME NEIGHBORHOOD BUT THE FACT OF THE MATTER IS, IF YOU WANT TO SEE A REAL COMMUNITY, YOU GO TO DESERT HIGHLAND. BECAUSE DESERT HIGHLAND IS WHERE NEIGHBOR STICKS UP FOR NEIGHBOR. SO SOMETIMES, DO SOME THINGS HAPPEN THAT THE POLICE WANT MORE INFORMATION? YES. IS THAT NEIGHBORHOOD GONNA

GIVE IT UP? PROBABLY NOT. THEY'RE GOING TO DEAL WITH IT INTERNALLY BECAUSE THIS IS A NEIGHBORHOOD THAT KNOWS ITS NEIGHBORS, THEY KNOW THE GOOD EGGS AND THE SMELLY, ROTTEN ONES. AND THEY ARE GOING TO HANDLE IT. BECAUSE THEY TRUST EACH OTHER. BECAUSE THEY LOVE EACH OTHER. AND THAT IS THE FACT OF IT. I WISH MY NEIGHBORHOOD WAS AS LOVING AND CARING AS THE DESERT HIGHLAND NEIGHBORHOOD IS FOR ITS NEIGHBORS. FOR THOSE OF YOU WHO HAVE NOT EXPERIENCED IT, I REALLY SUGGEST THAT YOU DO. THE JAMES O. JESSE CENTER THERE, I AM SO PROUD WHEN I WAS ON PARKS AND RECREATION COMMISSION, THAT WE MADE SURE THAT THAT CENTER BECAME SOMETHING VERY SPECIAL AND MY NAME IS ON THE PLAQUE OUTSIDE OF THERE. AND EVERY TIME I GO THERE, I COULDN'T FEEL PROUDER TO BE A PART OF THAT. AND GRACE, I WANT TO TELL YOU SOMETHING, YOU ARE DOING A GREAT JOB. I DIDN'T KNOW YOU BEFORE. BUT I KNOW YOU NOW AND I SEE YOUR HEART, GIRL. YOU ARE DIFFERENT. YOU ARE CERTAINLY ONE OF THOSE PEOPLE THAT HAS NOT BEEN A POLITICIAN BUT YOU JUST COME IN, LOVING THE COMMUNITY. AND I KNOW THE PEOPLE IN THE COMMUNITY SUPPORT YOU AND WHAT YOU ARE REPRESENTING THERE. AND SO I JUST WANT TO REALLY SAY, I THINK IT IS JUST SO IMPORTANT TO UNDERSTAND THAT WE CAN SUPPORT THE POLICE AND SUPPORT THE COMMUNITY BUT WE NEED TO TAKE A DEEPER LOOK AND MAKE SURE THERE ARE NO ROTTEN EGGS IN THE POLICE DEPARTMENT THAT ARE TREATING BLACK PEOPLE OR OTHER PEOPLE OF COLOR OR TRANSGENDER PEOPLE OR GAY PEOPLE, ANY DIFFERENTLY THAN THEY WOULD TREAT ANYBODY ELSE AND THAT IS THE CRUX OF THE PROBLEM AND I AM HERE TO TELL YOU, WHATEVER I CAN DO TO HELP, I WILL. JUST LIKE I'VE ALWAYS HAD. AND I'M HERE TO TELL YOU THAT ALL OF MY CHILDREN HAVE MARRIED INTO INTERRACIAL FAMILIES. ALL OF MY GRANDCHILDREN AND GRANDCHILDREN ARE BIRACIAL. WHEN YOU LIVE WITH IT, IT IS DIFFERENT THAN JUST WATCHING IT IN THE NEWS. AND I JUST WANT TO TELL YOU, I LOVE YOU VERY MUCH. JANEL, I LOVE YOU. YOU ARE BEAUTIFUL. IT IS NICE TO SEE YOU HERE. THANK YOU VERY MUCH FOR GIVING ME THIS TIME TO SPEAK. WE CAN DO IT. BECAUSE WE ARE PALM SPRINGS AND DON'T LET ANYBODY TELL YOU DIFFERENT. THANK YOU SO MUCH.

**NAOMI SOTO:** HI, MY NAME IS NAOMI SOTO, I AM A DISTRICT FOUR RESIDENT, I AM IN THE SONORA SUNRISE NEIGHBORHOOD. AND I APPRECIATE THE OPPORTUNITY TO SHARE SOME THOUGHTS ON POLICING AND DISCRIMINATION AND JUST THAT WE ARE DOING THIS AND AS A RESIDENT OF THE CITY, AND DEFINITELY AS AN OVERALL SUPPORTER OF THE BLACK LIVES MATTER MOVEMENT. THIS MOMENT WE ARE EXPERIENCING AND THE SENTIMENTS, THEY HAVE BEEN BUBBLING FOR A LONG, LONG TIME. AND I JUST WANT TO PUT A LITTLE BIT OF BIG PICTURE HOW I SEE OR WHAT I AM NOTICING. WE ARE IN A PUBLIC HEALTH, RACIAL AND ECONOMIC RECKONING ALL AT THE SAME TIME. AND PALM SPRINGS IS LIKE MOST CITIES IN AMERICA RIGHT NOW, EXPERIENCING THIS AT THE SAME TIME , BUT I JUST DON'T UNDERSTAND WHY SOME MEMBERS OF THE COUNCIL ARE SO RETICENT TO EXAMINE THE POLICE BUDGET AND ITS POLICIES WHEN WE ARE EXPERIENCING SUCH A DIRE FISCAL EMERGENCY AND OUR CITY RESERVES HAVE BEEN REALLY CENTRALLY RUNNING ON FUMES RIGHT NOW. THAT IS KIND OF WHAT I AM FEELING BUT THAT'S ACTUALLY NOT WHAT I WANT TO TALK ABOUT. I JUST WANT TO TALK ABOUT THE PROCESS OVERALL. THAT I FIND VERY INTERESTING. WHILE IT IS SO VALUABLE AND SO GREAT THE COUNCIL IS LISTENING TO RESIDENTS, PARTICULARLY THE EXPERIENCE OF BLACK RESIDENTS AND PEOPLE OF COLOR, IT SEEMS TO ME THAT TO HEAR ANY POLICE CRITICISM OR JUST AN EXAMINATION OF ITS BUDGET , THE COUNCIL IS EXPECTING RESIDENTS TO TELL THEM THAT RACISM

IS REAL IN THE CITY. AND BEFORE WE CAN EVEN HAVE A CONVERSATION ON 21<sup>ST</sup> CENTURY POLICING, OUR CITY NEEDS TO HEAR FROM RESIDENTS ABOUT THEIR EXPERIENCES WITH THE POLICE, ALMOST BEING RETRAUMATIZED AND RE-TELLING THEIR STORIES WITH POLICE AND DISCRIMINATION. AND I WONDER IF THIS IS EXPECTED ON OTHER ISSUES. RIGHT? IT SEEMS TO ME THAT IF SOMETHING COMES UP AT ONE-PS THEN COUNCILMEMBERS TAKE ACTION ON IT. IF THERE'S ISSUES AROUND CANNABIS BUSINESSES, OR PRIORITIES FOR DOWNTOWN ECONOMIC DEVELOPMENT, OR THE MAIN STREET GROUP BRINGS IT UP AND ACTION IS TAKEN. THAT IS THE POWER OF THESE LITTLE GROUPS OF PEOPLE WHO KNOW THE ISSUES SO, SO WELL. BUT WHEN IT COMES TO BLACK RESIDENTS AND PEOPLE OF COLOR RAISING ISSUES AROUND POLICE AND DISCRIMINATION, CONCERNS ABOUT THE BUDGET, THE BURDEN OF PROOF JUST SEEMS SO MUCH HIGHER. AND I WOULD ASK MY FELLOW RESIDENTS TO THINK ABOUT WHY THIS IS EXPECTED. I WOULD ASK OUR CITY COUNCILMEMBERS TO THINK ABOUT, WHY NOT JUST HEARING FROM DESERT HIGHLAND RESIDENTS FIRST-HAND IN THEIR OWN MEETINGS, HASN'T BEEN ENOUGH OF A FERVOR TO KIND OF MOVE SOME ACTION AND EXAMINATION ON THE POLICE BUDGET. WHY HAVEN'T THE STORIES THAT HAVE BEEN TOLD ALREADY BEEN ENOUGH TO MOVE ANY ACTION? WE HAVE MOMENTUM RIGHT NOW AND I AM SO GLAD WE ARE AS A CITY, ALL KIND OF COMING TOGETHER, BUT WHEN THE STORIES NEED TO BE SO MUCH LOUDER AND ALL IN UNISON, WHEN IT IS AN ISSUE ON RACE, WHEN IT IS NOT EXPECTED ON OTHER ISSUES. IT FEELS VERY UNCOMFORTABLE TO ME. AND THE ASK FEELS VERY UNCOMFORTABLE TO ME. SO THAT IS KIND OF WHAT I WANTED TO RAISE AND THAT IS JUST WHAT I WANTED TO SHARE. AND THAT IS MY PUBLIC COMMENT.

**BRENDAN STEIDLE:** YES, MR. MAYOR, COUNCIL MEMBERS, I WANT TO START OFF BY SAYING THAT I LIVE AND WORK HERE IN PALM SPRINGS, I HAVE WORKED HERE FOR SEVEN YEARS AND I AM A HOMEOWNER IN PALM SPRINGS. MY WIFE AND I ARE EXPECTING A BABY AND WE LOOK FORWARD TO BEING PARENTS IN THIS TOWN. WE BOTH HAVE DEGREES IN PUBLIC COMMUNICATIONS AND PUBLIC POLICY AND HAVE LOOKED VERY CLOSELY AT THE ISSUES OF POLICING HERE IN OUR CITY. I HAVE HAD A FEW BRIEF OPPORTUNITIES TO MEET WITH AND WORK WITH CHIEF REYES OVER THE YEARS AND TO WATCH HIS ANNUAL PRESENTATIONS ON THE WORK OF THE POLICE FORCE. I HAVE GREAT RESPECT FOR HIM AND HIS LEADERSHIP. AT THE SAME TIME, I HAVE SPENT MANY HOURS LOOKING CLOSELY AT THE PALM SPRINGS BUDGET AND THE ALLOCATIONS THAT HAVE GONE TO POLICING. I HAVE ALSO SPENT HOURS ANALYZING AND COMPARING OUR BUDGET TO THE BUDGETS OF OTHER CITIES AND THE NATION OVERALL. I HAVE GROWN CONCERNED THAT OUR CITY, ESPECIALLY IN A TIME OF BUDGET CRISIS, IS SPENDING FAR MORE ON POLICING THAN IT SHOULD. WE SPEND ALMOST TWICE AS MUCH AS THE NATIONAL AVERAGE AND ABOUT 40% MORE THAN OUR STATE AVERAGE HERE IN CALIFORNIA. I TRIED TO UNDERSTAND WHY THIS IS, AND IF OTHER CITIES DO THE SAME, AND FOR WHAT REASON? I HAVE YET TO FIND A MEANINGFUL EXPLANATION FOR WHY PALM SPRINGS NEEDS TO SPEND SO MUCH MORE THAN OTHER CITIES ON POLICING. IT IS NOT ABOUT OUR SEASONAL VISITORS, BECAUSE OTHER CITIES WITH SEASONAL VISITORS DO NOT SPEND THE WAY WE DO. IT IS NOT BECAUSE OF OUR SIZE, BECAUSE EVERY CITY OF OUR SIZE DOES NOT SPEND THE WAY WE DO. IT IS NOT BECAUSE OF BEING A TOURIST TOWN, BECAUSE OTHER TOURIST DESTINATIONS DO NOT SPEND THE WAY WE DO. WE OVERSPEND. AND THAT IS A PROBLEM, BECAUSE WE HAVE LIMITED RESOURCES IN THIS CITY. WE OVERSPEND AND THAT IS A PROBLEM BECAUSE POLICE, WHETHER THEY ARE RESPONDING TO A CRITICAL PUBLIC SAFETY ISSUE OR BEING CALLED ON FOR QUALITY-OF-LIFE ISSUES, WHICH WE HAVE

ALMOST HALF OF OUR CALLS FOR SERVICE ARE RELATED TO THAT. POLICING WHERE POLICING IS NOT REQUIRED OR ISN'T THE BEST SOLUTION CAN LEAD TO HIGH STAKES SITUATIONS BECOME DANGEROUS FOR OUR CITIZENS, FOR OUR VISITORS, OUR TOURISTS, AND FOR OUR POLICE THEMSELVES. IT CAN ALSO LEAD TO ABUSE. WE OVERSPEND AND I WANT TO KNOW WHY. I WANT TO HEAR FROM OUR CITY LEADERS WHY OUR CITY MUST SPEND MORE ON POLICING THAN OTHER CITIES. MAKE THE CASE, DEFEND YOUR ARGUMENTS AND YOUR POSITION. PLEASE LOOK AT THE NUMBERS HONESTLY AND OPENLY AND IF YOU BELIEVE WE NEED TO SPEND TWICE AS MUCH OF THE NATIONAL AVERAGE, MAKE YOUR CASE. IF YOU BELIEVE WE NEED TO SPEND 40% MORE THAN THE STATE AVERAGE, MAKE YOUR CASE. IF YOU BELIEVE WE NEED TO SPEND OVER \$200,000 PER PERSON WITHIN THE POLICE DEPARTMENT, MAKE YOUR CASE. LISA MIDDLETON, PLEASE MAKE YOUR CASE. DENNIS WOODS, PLEASE MAKE YOUR CASE. MAYOR KORS, PLEASE LOOK HONESTLY AT THE NUMBERS AND MAKE YOUR CASE. IT IS NOT ENOUGH TO SAY WE HAVE A LOT OF VISITORS. HOW MANY VISITORS? FOR HOW LONG? HOW DOES THIS COMPARE WITH OTHER CITIES? WHAT IS THE REASONING, WHERE IS THE SCRUTINY? THANK YOU, GRACE AND THANK YOU CHRISTY FOR BEING WILLING TO LOOK AT THESE NUMBERS AND TO LISTEN TO THESE VOICES TODAY. VOICES THAT AREN'T JUST TALKING ABOUT BUDGET AND NUMBERS LIKE I AM, BUT WHO ARE TALKING ABOUT ISSUES LIKE RACE AND ABUSE THAT ARISE FROM THE CITY COUNCIL'S FUNDING OF POLICE. AS CITY COUNCIL, THE POLICE ARE ALL OF YOUR RESPONSIBILITY. YOU ARE RESPONSIBLE FOR THEIR FUNDING AND YOU ARE RESPONSIBLE FOR THEIR CONDUCT. THANK YOU FOR LISTENING TODAY, BUT IT CANNOT STOP HERE. WE NEED ACTION. LOOK TODAY AT WHY OUR BUDGET IS HIGHER THAN OTHER CITIES AND REALLY TRY TO FIND IF THERE ARE LEGITIMATE REASONS WHY THAT NEEDS TO STAY THE CASE. YOU HAVE TO REAUTHORIZE THAT BUDGET NEXT MONTH AND THE MONTH AFTER THAT AND THE MONTH AFTER THAT, WHAT CAN YOU DO NOW TO BRING OUR BUDGET MORE IN ALIGNMENT SO THAT OUR SPENDING ON POLICE IS NOT SUCH AN OUTLIER? WHAT CAN YOU DO NOW SO THAT WE CAN ADDRESS PUBLIC SAFETY ISSUES IN OUR CITY USING OTHER BEST PRACTICES? POLICE ARE NOT THE BEST SOLUTION TO HOMELESSNESS, WE KNOW THAT. POLICE AREN'T THE BEST SOLUTION TO SUBSTANCE ABUSE ISSUES. POLICE AREN'T THE BEST SOLUTION FOR QUALITY-OF-LIFE CALLS. THEY ARE KEY TO RESPONDING TO CRITICAL PUBLIC SAFETY PROBLEMS. BUT THEY ARE NOT THE ONLY SOLUTION. PLEASE BE INNOVATIVE. PLEASE BE LEADING VOICES FOR CHANGE ON THIS AS YOU HAVE BEEN FOR LGBTQ RIGHTS. AS YOU HAVE BEEN FOR A WHOLE NUMBER OF ISSUES THAT MAKES PALM SPRINGS SUCH A GREAT PLACE TO LIVE. WE HAVE THE CAPACITY TO BE GREAT ON THIS TOO. AND WITH THE POLICE CHIEF LIKE CHIEF REYES, I WOULD HOPE YOU WOULD FIND A WILLING PARTNER IN REFORM THAT CAN MAKE OUR CITY SAFER FOR EVERYONE. THANK YOU FOR LISTENING, PLEASE TAKE ACTION ON WHAT YOU HEAR TODAY. THANKS.

**JUAN ESPINOZA:** HI, EVERYONE. THANK YOU SO MUCH FOR MAKING THE TIME AND THE SPACE FOR US TO HAVE THIS OPPORTUNITY TO SPEAK AND THANK YOU FOR EVERYONE WHO STUCK AROUND. I KNOW IT IS PAST 1:00 ON A SATURDAY AND WE WOULD ALL LIKE TO HAVE OUR SATURDAY SO I REALLY APPRECIATE THE COUNCIL PUTTING THIS TOGETHER AND PUTTING IN THE EFFORT AND THE TIME TO SUPPORT THIS VERY IMPORTANT FORUM AND TIME. I WANT TO SAY I GREW UP IN PALM SPRINGS, I WENT TO CAHUILLA ELEMENTARY SCHOOL, RAYMOND CREE MIDDLE SCHOOL, PALM SPRINGS HIGH SCHOOL. AND I AM NOW AT HARVARD LAW SCHOOL. PRECISELY BECAUSE OF THE MANY ISSUES THAT I LIVED AND SAW AND EXPERIENCED IN PALM SPRINGS. MY MOM CLEANS HOUSES, MY DAD IS A WAITER,

BOTH OF THEM HAVE BEEN IN THE SERVICE INDUSTRY SINCE THE 70S IN PALM SPRINGS. AND I HAVE VERY VIVID MEMORIES OF MY MOM COMING HOME CRYING BECAUSE SHE CLEANED HOUSES FOR SOMEONE THAT WAS MAD THAT SHE WAS TAKING A BREAK TO HAVE A SANDWICH. OR THAT MY DAD IS BEING HARASSED BY THE POLICE OR THAT HE WAS FOLLOWED BECAUSE HE WAS IN AN OLD BEAT UP TRUCK OR OLD BEAT UP CAR. AND ALL OF THESE INCIDENTS HAVE BEEN NOT AN EXCEPTION BUT RATHER THE NORM IN PALM SPRINGS. I MYSELF WAS A WAITER AND BUSBOY AT MANY RESTAURANTS IN PALM SPRINGS, WHERE IN SOME OF THEM, WHICH I'M SURE MANY OF THE CITY COUNCILS FREQUENT OFTEN, BUSBOYS THAT WERE MEXICAN WERE CALLED COCKROACHES, AND THERE WERE MANY RACIAL SLURS USED FOR THE MEXICAN SERVICE STAFF. AND IF YOU EVER GO TO A RESTAURANT IN PALM SPRINGS, YOU KNOW THAT THE KITCHEN IS USUALLY FULL OF MEXICAN IMMIGRANTS THAT ARE DOING THE HARD WORK AND YOU SEE MEXICAN IMMIGRANTS DOING THE LANDSCAPING, THEY ARE BUILDING OUR CITIES, THEY ARE LANDSCAPING, EVERYTHING YOU SEE, THE BEAUTY IN THE DESERT, IS BUILT BY THESE COMMUNITIES, AND YET WE HAVE INCIDENTS SUCH AS THIS PERSON THAT HAS NOW GONE VIRAL WHO APPROACHES THEM AND ATTACKS IMMIGRANTS, ASKING THEM FOR THEIR PAPERS. AND THAT IS NOT SOMETHING THAT IS SURPRISING FOR SOMEONE LIKE ME BECAUSE I GREW UP, EVEN AT PALM SPRINGS HIGH SCHOOL, WHERE WHEN WE WERE FIGHTING FOR IMMIGRANTS, PEOPLE WERE CALLING ME A WET BACK AT PALM SPRINGS HIGH SCHOOL, AND SO I THINK, I AM REALLY UPSET TO HEAR THAT SOME OF THE COMMENTS ARE SAYING THAT WE ARE ON A BANDWAGON OR THAT THIS IS JUST AN OPPORTUNITY FOR US TO ADDRESS RACISM WHEN SOME OF US HAVE BUILT OUR ENTIRE LIVES AROUND FIGHTING THESE ISSUES. AND I HAVE SEEN THIS IN SO MANY WAYS, AND I THINK I WILL GET TO THE POLICE IN A MOMENT, BUT I THINK WE NEED TO ADDRESS THE WAY THAT THIS PERMEATES SO MANY ASPECTS OF THE CITY AND ADDRESS THE FACT THAT FOR EXAMPLE, BEING AT PALM SPRINGS HIGH SCHOOL, WHERE IT WAS 50% LATINO, I WAS ONE OF LIKE THREE LATINOS IN THE AP AND ADVANCED CLASSES. WHY AREN'T WE ADDRESSING THOSE DISPARITIES? I HAD TO FIGHT TOOTH AND NAIL, EVEN TO GET INTO ADVANCED CLASSES, WHEN I HAVE THE TESTING SCORES, I WAS WRONGFULLY PUT IN LOWER LEVEL CLASSES AND I HAD TO GO TO ADMINISTRATION. HAD I NOT HAD THE WILL TO DO THAT, I WOULD NOT HAVE BEEN TRACKED INTO A TRACK THAT WOULD LEAD ME TO COLLEGE. AND THERE ARE SO MANY OF THOSE DISPARITIES WITH COUNSELORS PUSHING STUDENTS OF COLOR TO THE SIDE, WITH THE FACT THAT THE SCHOOL IMPRISONMENT PIPELINE IS REAL AND EXISTING REALITY AND FOR THOSE THAT ARE NOT FAMILIAR, I DID THAT RESEARCH LATER ON IN COLLEGE AND I WROTE AN OP-ED ABOUT IT IN 2012, SO THAT WAS EIGHT YEARS AGO. AND IT JUST LOOKS AT THE WAY THAT BLACK AND LATINO STUDENTS ARE FUNNELED INTO SUSPENSIONS AND EXPULSIONS AND THEN END UP IN THE CRIMINAL JUSTICE SYSTEM BECAUSE WE FUNNELED THEM THERE. AND THAT IS PRECISELY WHY THERE IS AN ISSUE WITH HAVING SCHOOL RESOURCE OFFICERS. THE FACT THAT THE PALM SPRINGS UNIFIED SCHOOL DISTRICT SPENDS \$645,000 ON SCHOOL RESOURCE OFFICERS, IN PALM SPRINGS ALONE, THE PALM SPRINGS POLICE DEPARTMENT GETS \$150,000 DOLLARS FOR STAFFING A POLICE OFFICER AT THE HIGH SCHOOL. AND I THINK IT IS JUST UNFORTUNATE THAT STUDENTS HAVE TO INTERACT WITH POLICE OFFICERS BEFORE THEY EVEN GET TO SEE WHAT A COLLEGE LOOKS LIKE. AND I THINK THAT IS WRONG. AND THAT SENDS THE WRONG MESSAGE TO OUR COMMUNITY AND I AM SURE YOU WOULD NOT SEE POLICE OFFICERS STATIONED AT MOSTLY WHITE, PRIVATE SCHOOLS, BECAUSE WE KNOW THAT IS NOT SOMETHING THAT IS A HEALTHY THING FOR CHILDREN. AND SO, I THINK IT IS JUST COMPLETELY OUTRAGEOUS, THE AMOUNT OF MONEY THAT WE SPEND ON POLICE

OFFICERS AND THAT WE PUT THEM IN SCHOOLS. AND THE REASON I GIVE ALL OF THIS BACKGROUND IS BECAUSE THIS IS SUCH AN ENTRENCHED ISSUE AND IT IS COMPLICATED AND THERE ARE SO MANY FACTORS OF THIS AND THE CITY JUST REFUSES, OR HAS REFUSED FOR THE LONGEST TIME, AND I REALLY AM THANKFUL FOR THE MORE RECENT RESPONSE THAT WE HAVE HAD, AND THAT IS THANKS TO NEW COUNCILMEMBERS, THAT, LIKE GRACE AND CHRISTY WHO HAVE BEEN SO, SO, SO SUPPORTIVE OF OUR COMMUNITY. IT IS INCREDIBLE TO FINALLY SEE SOME RESPONSE AND TO THOSE OF YOU THAT ARE NOT LISTENING OR THAT ARE HESITANT AND WANT TO HOLD ONTO THE OLDER IDEAS OF WHAT IT MEANS TO RUN A CITY, I BEG YOU AND I ASK YOU IN GOOD FAITH THAT YOU ACTUALLY PAY ATTENTION TO THE ISSUES THAT ARE COMING UP. I THINK THAT THERE ARE SO MANY WAYS THAT I CAN DESCRIBE THE WAYS IN WHICH I HAVE EXPERIENCED RACISM IN PALM SPRINGS, BUT I THINK LOOKING AT THE POLICE AND LOOKING AT WHAT IS HAPPENING RIGHT NOW WITH COVID, IT IS EXTREMELY AGGRAVATING AND EXTREMELY DISTRESSING TO SEE HOW THIS IS DECIMATING THE BLACK AND LATINO COMMUNITY. AND IF YOU LOOK AT THE NUMBERS IN PALM SPRINGS, AND I KNOW THAT A LOT OF PEOPLE HAVE TALKED ABOUT WHERE THEY LIVE IN THE DESERT BUT I THINK WE NEED TO RETHINK THE WAY THAT WE ADDRESS HOW INTERCONNECTED THE VALLEY IS AND THE FACT THAT BLACK AND LATINO WORKERS ARE A PART OF PALM SPRINGS AND WORKING FOR HOTELS AND BEING AFFECTED AND BEING RISKED DUE TO THE FACT THAT WE HAVE REOPENED TOO EARLY AND WE HAVE HAD IRRESPONSIBLE COUNTY POLICIES, AND SO IF YOU LOOK AT THE NUMBERS, THERE IS LIKE DOUBLE, TRIPLE NUMBERS IN MOSTLY LATINOS CITIES IN THE DESERT WHERE IF YOU LOOK AT PALM SPRINGS AND WHITE CITIES, THEN THE NUMBERS ARE MUCH, MUCH LESS. IT IS SAD TO SEE HOW BAD THAT IS, AND ONE OF THOSE THINGS I HAVE HEARD IS THAT, OH, LATINOS ARE NOT PAYING ATTENTION BUT I THINK THAT WE NEED TO REALLY LOOK AT WHO IS ACTUALLY BEING EXPOSED AND THE FACT THAT WE LIVE IN MORE CONDENSED SPACES, THAT WE HAVE BIGGER FAMILIES, IF YOU LOOK AT THE AVERAGE HOUSEHOLD SIZE IN PALM SPRINGS, IT IS TWO PEOPLE. BUT THE AVERAGE HOUSEHOLD SIZE IN COACHELLA AND INDIO IS FOUR PEOPLE. THAT IS DOUBLE. THEN YOU DIRECTLY SEE THAT IS WHY PARTIALLY THERE ARE DOUBLE THE CASES THERE, BECAUSE WHEN LATINO COMMUNITIES ARE IMPACTED, THE IMPACT IS FAR GREATER BECAUSE OF THE WAY IN WHICH WE ARE EXPOSED. AND THAT IS A SYSTEMIC ISSUE, THAT IS A PRECISE EXAMPLE OF SYSTEMIC RACISM. AND SOMETHING THAT WE NEED TO ADDRESS. OKAY, I'M GOING TO CLOSE OFF BY SAYING THAT I AM HERE FIRST AND FOREMOST TO BE IN SOLIDARITY WITH BLACK PEOPLE AND IN THIS MOMENT, THAT WE SHOULD HAVE A RECKONING WITH THE WAY THAT WE ADDRESS POLICE AND I HAD TWO BLACK WOMEN AS MY ENGLISH TEACHERS IN HIGH SCHOOL, MS. STAGG AND MISS HAWKINS, WHO SET ME UP FOR SUCCESS AND HAVE REALLY INFORMED MY PERSPECTIVE, AND I AM SO THANKFUL FOR THEM, AND I REALLY WANT TO BE HERE FOR THE BLACK COMMUNITY AND SAY THAT I THINK WE SHOULD BE DOING A LOT MORE TO SHIFT RESOURCES AWAY FROM THE POLICE AND TOWARD MENTAL HEALTH TOWARD COMMUNITY SERVICES, TOWARD HEALTHCARE, AND THAT IS WHAT PUBLIC SAFETY MEANS AND SHOULD LOOK LIKE DURING THIS PANDEMIC AND THIS CRISIS. AND I THINK WE CAN DO MUCH, MUCH BETTER AS A CITY. THANK YOU.

**JOANNE CRAWFORD:** THANK YOU FOR HAVING ME. CONCERNING THE BODY CAMERA, WHICH TOOK US EIGHT YEARS TO GET. IF THE POLICE DO NOT HAVE THEIR BODY CAMERAS ON, THEY SHOULD BE SUSPENDED WITHOUT PAY FOR THREE DAYS. THEY CANNOT MAKE AN ARREST WITHOUT THEIR BODY CAMERA ON. AND IF PALM SPRINGS POLICE HAVE A BAD APPLE IN THERE ON THE FORCE, THEY SHOULD REMOVE HIM. WE HAVE A BEAUTIFUL POLICE DEPARTMENT; WE DO NOT NEED ONE BAD APPLE TO SPOIL THE WHOLE BALE. THANK YOU.

**MELISSA DOLORES:** HELLO, MAYOR, MAYOR PRO TEM, AND CITY COUNCIL MEMBERS, THANK YOU SO MUCH FOR PUTTING US ON TODAY, I REALLY APPRECIATE IT. I KNOW IT IS A TOUGH TIME. MY NAME IS MELISSA DOLORES, I AM BORN AND RAISED HERE IN THE NORTH SIDE OF PALM SPRINGS AND I RECENTLY MOVED BACK AFTER GRADUATING FROM UCR. AND LIKE I SAID, I REALLY APPRECIATE YOU ALL FOR HOLDING THIS LISTENING SESSION. I AM CALLING FOR THE PEOPLE THAT ARE TOO AFRAID, THAT HAVE BEEN INTIMIDATED, AND THAT COULDN'T BE HERE TODAY. SO ONCE AGAIN I SPEAK FOR ALL PALM SPRINGS RESIDENTS WHEN I SAY DEFUND THE PALM SPRINGS POLICE DEPARTMENT AND ALLOCATE IT TO THE COMMUNITY LIKE PARKS AND REC, AND AFTERSCHOOL PROGRAMS, FUND PROGRAMS FOR PEOPLE THAT ACTUALLY LIVE HERE. GIVE BACK TO THE COMMUNITY AND HONESTLY, GIVE OUR BLACK FOLKS AND BLACK COMMUNITY THE REPRESENTATION THEY NEED, FOR BURNING DOWN THEIR HOMES AND RUINING THEIR LIVES. HOW MANY MORE STORIES DO WE HAVE TO TELL ABOUT THE GROSS MISCONDUCT OF POLICE OFFICERS? DO I CONTINUALLY HAVE TO TELL YOU HOW WE AS CHILDREN WERE HARASSED BY POLICE, HOW MY BROTHER HAD GUNS DRAWN ON HIM FOR WALKING HOME. I DO NOT UNDERSTAND HOW MANY MORE TIMES DO WE HAVE TO RELIVE OUR TRAUMATIC EXPERIENCES FOR YOU GUYS TO ACTUALLY DO SOMETHING. DOES IT MAKE YOU FEEL GOOD FOR US TO CONSTANTLY TELL YOU ABOUT EVERY SINGLE BAD EXPERIENCE THAT WE HAD FROM PALM SPRINGS POLICE DEPARTMENT? YOU SEE, WHEN THE PALM SPRINGS POLICE DEPARTMENT SHOULD BE DOWNTOWN PROTECTING OUR STREETS, RIGHT? NO, THEY ARE NOT. THEY ARE HARASSING US ON THE NORTH SIDE OF PALM SPRINGS. BUT OF COURSE, YOU WOULD NOT KNOW THAT BECAUSE YOU GUYS HAVE NEVER WALKED IN OUR SHOES. YOU CAN ONLY IMAGINE. THE OTHER DAY I SAW SIX POLICE OFFICERS PULL OVER ONE MAN. ONE MAN. I DON'T KNOW ABOUT YOU BUT THAT IS TEXTBOOK OVER POLICING. I ALSO WANT TO MENTION, AT THE LAST CITY COUNCIL MEETING, WHEN WE ALL EXPRESSED OUR FEELINGS AND OUR STORIES ABOUT DEFUNDING THE PALM SPRINGS POLICE DEPARTMENT, IT WAS EXTREMELY DISMISSIVE THAT A COUNCILMEMBER, AFTER EVERYTHING THAT WAS JUST SAID, SAID THAT OUR POLICE DEPARTMENT IS EXEMPLARY. THAT THEY ARE AMAZING OFFICERS. AND ALL THESE OTHER THINGS. THE FACT THAT YOU DISMISSED US LIKE THAT, COUNCILMEMBER MIDDLETON, WAS TRULY, TRULY JUST I HAVE NO WORDS. I WAS SO FURIOUS. HOW COULD YOU DEFEND THEM AFTER EVERYONE JUST SAID THEY WERE FOLLOWED BY POLICE OFFICERS BECAUSE THEY WERE IN AN OLD BEAT UP TRUCK. THAT YOU COULD DEFEND THEM IF WE ARE LITERALLY TELLING YOU, WE'RE TELLING YOU OUR EXPERIENCES AND FOR YOU TO BE DISMISSIVE, THAT WAS TRULY, TRULY DISRESPECTFUL. AND I YEILD MY TIME.

**EZERNAL BLACK:** MY NAME IS EZERNAL. MY DAD STARTED WORKING IN PALM SPRINGS IN THE WINTERS IN THE 40S AND CAME HERE PERMANENTLY IN 1953. AFTER I HAD GONE TO COLLEGE FOR TWO YEARS IN TEXAS, I DECIDED TO COME FOR A VISIT. I WAS SO DISAPPOINTED TO SEE THE LIVING CONDITIONS OF SECTION 14 AND THAT THEY WERE SO MUCH WORSE THAN IN TEXAS, A LITTLE



TOWN WHO HAS ONLY A LITTLE MORE THAN 6,000 PEOPLE IN IT. SO I DECIDED TO STAY AND WORK A YEAR BEFORE GOING ON BACK TO COLLEGE. AND I FOUND IN 1967, THAT BLACK PEOPLE COULD ONLY DO SERVICE WORK THE SAME THAT THEY WERE DOING IN TEXAS. THE ONLY DIFFERENCE WAS THE PAY. MY PARENTS LEFT SECTION 14 IN 1961 AND THAT WAS BEFORE THE CITY OFFICALS BECAME VIOLENT. I CAME BACK TO PALM SPRINGS IN 1963 TO LIVE PERMANENTLY. AND AFTER SOME PICKETING WAS TAKING PLACE, WE GOT HERE IN PALM SPRINGS, THE FIRST BLACK GROCERY CLERK IN ACEVEDO, THE FIRST BLACK WAITRESS AT HAMBURGER HAMLET, THE FIRST BLACK BANK TELLER IN PALM SPRINGS. SO, DURING THAT PERIOD OF TIME, WE HAD OUR FIRST BLACK TEACHER WHO HAD EXPERIENCE, HAD BEEN WORKING FOR YEARS AS A TEACHER AND SHE CAME TO PALM SPRINGS, SHE HAD TO WORK AS A STUDENT TEACHER. SHE WAS GIVEN A STIPEND RATHER THAN A SALARY. BUT I ALSO FIND SOMETHING THAT DISTURBS ME IS THAT PALM SPRINGS HAS HAD A HIGH SCHOOL SINCE 1938, 39, AND THE FIRST BLACK STUDENT TO GRADUATE FROM COLLEGE WAS 1960, CHARLIE JORDAN. THAT WAS APPALLING TO ME. I WANTED TO WORK, WHEN I COULDN'T GET A JOB HERE IN PALM SPRINGS, I WAS A MAID, OR TO GET A JOB AT THE TELEPHONE COMPANY. BECAUSE I HAD GONE TO SCHOOL FOR TWO YEARS, THEY SAID I WAS OVERQUALIFIED. THAT WAS A STAB IN THE BACK. NEVER HAD ANY PERSONAL CONFRONTATIONS WITH THE POLICE DEPARTMENT, BUT MY CHILDREN WOULD TALK ABOUT, FROM TIME TO TIME AND THEIR FRIENDS, HOW THE POLICE WOULD JUST HARASS THEM, AND THEY HAD A WHITE FRIEND WHO JOINED THE POLICE DEPARTMENT AND HE GOT OFF THE POLICE DEPARTMENT BECAUSE HE WAS TIRED OF THE POLICE HARASSING HIS BLACK FRIEND. BUT ALL OF US RECOGNIZE THE FACT THAT WE NEED THE POLICE DEPARTMENT. BUT WE ALSO RECOGNIZE THAT THERE IS A DIFFERENCE IN HOW BLACKS ARE TREATED AND THE OTHER PEOPLE, TREATED NOT EQUALLY, AND OUR CITIZENS AS WELL, BECAUSE A WHITE MAN WILL GET A SLAP ON THE WRIST AND THE BLACK MAN WILL GO TO PRISON FOR 10 OR 15 YEARS. SO WE KNOW THAT THERE IS A DIFFERENCE. BUT MY REAL PROBLEM TODAY IS THE CROSSLEY ROAD CHANGE. I HAVE HEARD EVERY EXCUSE IN THE BOOK AS TO WHY IT HAS NOT BEEN DONE, EVEN TO THE FACT THAT HIS NAME IS TOO LONG TO GO ON THE SIGN. AND WE KNOW THAT IS NOT TRUE. WE RECOGNIZE THE FACT THAT, ONE A POLICE DEPARTMENT WE MUST HAVE, BUT ONE OF THE THINGS WE HAVE TO REALIZE IS THAT THERE IS THE GOLDEN RULE. WE WANT TO TREAT EACH OTHER AS WE HAVE BEEN TREATED. AND SO, ONE OF THE THINGS THAT I WANT YOU TO KNOW HERE ON THIS DAY IS, AND I WANT TO ASK THIS QUESTION, IS, WHY ARE WE AS BLACK PEOPLE SO HATED? WHAT HAVE WE DONE TO CAUSE YOU TO HATE US SO MUCH? THANK YOU FOR THE OPPORTUNITY TO SHARE WITH YOU TODAY.

**JAMES CIOFFI:** THANK YOU. GOOD AFTERNOON MR. MAYOR, MEMBERS OF THE COUNCIL. I JUST WANTED TO EXPRESS MY VIEW REGARDING THE BOGERT STATUE, I KNOW THIS IS NOT THE PERFECT TIME FOR THIS BUT IT IS SOMETHING I SEE OTHER PEOPLE MENTIONING TODAY. I THINK I WANT TO ECHO SOME OTHERS THAT HAD WROTE TO YOU, AND I WROTE A LETTER TO YOU AS WELL, BUT I THINK WE NEED TO HAVE A FORUM ON THIS ISSUE WHERE THE HISTORICAL RECORD AND FIRST-HAND TESTIMONY OF THOSE WHO WERE THERE AND HAVE PERSONAL KNOWLEDGE OF THIS ISSUE WITH SECTION 14 ESPECIALLY, CAN BE PRESENTED IN AN HONEST WAY. AND I THINK MAYBE WE SHOULD WAIT UNTIL WE CAN DO THAT IN PERSON. THERE ARE A LOT OF HISTORICAL FOLKS AND PEOPLE WHO KNEW FRANK AND PEOPLE WHO KNEW FIRSHAND WHAT HAPPENED AT SECTION 14 AND ALL THE GREAT THINGS HE DID FOR OUR CITY, THAT NEED TO BE SAID. SO, I AM JUST, AGAIN, MY VOTE IS TO HAVE A FORUM WHERE FACTS CAN BE PRESENTED, AND SURELY OUR

STORIES AND PERCEPTIONS MAY BE DIFFERENT BUT THAT IS ALL GOOD. EDUCATE EVERYONE AND WE CAN HAVE A MEANINGFUL DISCUSSION ABOUT ALL THIS. THOSE ARE MY THOUGHTS AND THANK YOU FOR HAVING ME. AND THANK YOU FOR PUTTING THIS ON, IT HAS BEEN A VERY GOOD THING FOR OUR CITY.

**ELIZABETH DOLORES:** I JUST WANT TO SAY QUICKLY, THANK YOU GUYS FOR YOUR TIME, BUT ALSO TO LET YOU KNOW THAT THE FACT THAT YOU GUYS KEEP FUNDING THE POLICE DEPARTMENT WITH ALL THIS MONEY, I AM REALLY UPSET ABOUT BECAUSE WE COULD BE INVESTING IT IN OTHER THINGS INSTEAD OF A FREAKING MILITARIZED POLICE CHIEF THAT IS JUST STANDING THERE IN THE POLICE LOT. AND, YOU KNOW, THE COPS, I UNDERSTAND THEY DO THEIR JOB, THEY DO ALL THIS, BUT I FEEL LIKE THEY MILK THE CLOCK ALL THE TIME. I HAVE GONE TO COURT SEVERAL TIMES ON MATTERS OF JURY DUTY, AND THEY ARE ARROGANTLY EXPLAINING TO PEOPLE HOW THEY, YOU KNOW, LOVE COURT DAYS BECAUSE THEN THEY CAN GO THROUGH THEIR OVERTIME IN THE CITY AND, YOU KNOW, WE RELEASED A LOT OF GOOD CITY WORKERS THAT ACTUALLY HELP AND KEEP AND MAINTAIN OUR CITY STREETS CLEAN AND LOOKING PRISTINE, AND WE SACRIFICE THEM AND SOMEBODY NEEDS TO SPEAK UP AND ADVOCATE FOR THESE CITY WORKERS THAT WE ACTUALLY, YOU KNOW, SHOULD BE ASSISTING, AND THEN ALSO, LOOK AT THE, YOU KNOW, WHAT IS GOING ON, YOU KNOW, ON THE NORTH SIDE UP THERE. THERE'S NO BATHROOMS UP THERE. YOU KNOW, STILL IN MY NEIGHBORHOOD, SOME OF MY NEIGHBORS THAT DON'T HAVE SEWER SYSTEMS, WE COULD DO SO MUCH MORE WITH THIS MONEY. I AM REALLY UPSET BECAUSE YOU GUYS DISMISSED EVERYTHING WE SAID, OUR EMAILS, OUR PHONE CALLS. AND YOU KNOW, LISA MIDDLETON, YOU KNOW, ALL OF YOU GUYS THAT VOTED TO FUND THE POLICE, I'M REALLY UPSET AND I CAN'T EVEN FIND WORDS THAT ARE, YOU KNOW, THAT I CAN SAY WITHOUT OFFENDING PEOPLE ABOUT HOW I FEEL ABOUT THIS. AND, YOU KNOW, MY COUNCIL IS NOT AT WORK AND I AM VERY UPSET ABOUT WHAT YOU GUYS ARE DOING AND I WANT TO THANK CHRISTY AND I WANT TO THANK GRACE FOR STANDING UP FOR US, THE PEOPLE THAT KEEP GETTING DISMISSED. AND I AM OVER, YOU KNOW, YOU GUYS DISMISSING US, BECAUSE OF THE COLOR OF OUR SKIN OR BECAUSE OF, YOU KNOW, YOU THINK WE ARE YOUNG AND WE ARE DUMB. BUT WE STILL, YOU KNOW, PROVIDE FOR OUR CITY, WE STILL PAY OUR CITY TAXES, AND THEN WHEN WE PAY OUR CITY TAXES YOU HAVE NO PROBLEM WITH ACCEPTING OUR MONEY BUT YOU GUYS DO NOT ACCEPT WHAT WE HAVE TO SAY AND THAT IS APPALLING. AND I AM REALLY UPSET, AND THAT IS IT.

**CLIFFORD REED:** OKAY, I WANT TO SPEAK ON DISCRIMINATION AND RACISM IN AMERICA. AMERICA HAS BEEN DOING THIS FOR GENERATIONS, STATE AND CITY HAS FOLLOWED. IT IS TIME FOR US TO STOP. BLACK AMERICANS, NATIVE AMERICANS, AND MEXICAN AMERICANS HAVE CONTRIBUTED A GREAT DEAL TO THIS COUNTRY AND THEY SHOULD BE JUDGED AS AMERICANS, AND NOT AS SOME ALIEN FROM A DIFFERENT WORLD. IT IS TIME FOR THIS RACISM TO STOP AND TREAT EVERYBODY FAIR. WE HAVE CONTRIBUTED, WE HAVE BUILT THIS NATION TO WHERE IT IS RIGHT NOW. AND IT CANNOT BE A GREAT NATION IF ALL THE RACES ARE NOT ACCEPTED. THANK YOU.

**COURTNEE:** THANK YOU SO MUCH. I AM HERE TO TALK ABOUT THE FRANK BOGERT STATUE AND IN OPPOSITION OF REMOVAL OF THE STATUE AND SECTION 14. I THINK THERE'S A LOT OF MISNUMBERS AND RUMORS IN REGARD TO HIS STATUE AND SECTION 14. I DO WANT TO ADD THAT FRANK BOGERT WAS A TRUE ADVOCATE FOR MINORITIES IN HELPING ALL TRIBAL MEMBERS GO TO WASHINGTON, D.C. AND

TO ADVOCATE FOR THE TRIBAL MEMBERS TO GET TO LEASE THEIR LOAN, TO EXTEND FROM A FIVE YEAR LEASE TO A 99 YEAR LEASE. AND THAT WE SHOULD NOT JUDGE OUR PAST HISTORICAL LEADERS ON THE HINDSIGHT OF OUR NOW 2020 VISION. SO, I KNOW THAT THIS IS A DISCUSSION THAT WILL PROBABLY EXTEND, HOPEFULLY TO A LARGER PLATFORM IN THE FUTURE, AND I THANK THE COUNCILMEMBERS FOR THEIR TIME, AND I KNOW A LOT OF OUR MEMBERS ON OUR FACEBOOK PAGE HAVE BEEN ABLE TO JOIN US. WE HAVE A COLLECTION OF OVER 1,700 MEMBERS OF ALL RACE ORIENTATIONS, GENDERS, AND PHILOSOPHICAL BELIEFS WITHIN OUR GROUP. AND THIS HAS REALLY BROUGHT A WONDERFUL AMOUNT OF COMMUNITY INVOLVEMENT TO DISCUSS THIS ISSUE. AND I WELCOME ANYBODY WHO IS INTERESTED TO JOIN IN ON THE CONVERSATION, TO JOIN WITH OUR PALM SPRINGS FACEBOOK PAGE, REGARDING PEOPLE WHO KNEW FRANK BOGERT THE BEST AND HEAR WHAT THEIR VOICES HAVE TO SAY IN REGARD TO... SORRY, I AM A MOTHER OF TIPLITS, SO THEY WILL COME IN AND OUT. SO, IF YOU COULD PLEASE HEAR FROM PEOPLE WHO KNEW HIM INSTEAD OF RUMORS, THAT WOULD BE WONDERFUL TO JOIN AND LISTEN IN A NONPOLITICAL TOWN, SO THAT WE CAN SET THE RECORD STRAIGHT IN REGARDS TO SECTION 14, WHICH IS OBVIOUSLY A HOT BUTTON TOPIC. BUT I THINK THE REAL CHANGE IN LOCATION IN REGARD TO THE BOGERT STATUE REALLY RESIDES IN THE INDIVIDUAL HEART MORE THAN THE LOCATION AND THE PHYSICAL ADDRESS OF THE STATUE. AND OUR SOCIETY, LIVING IN THIS 2020 VISION, REALLY NEEDS TO UNDERSTAND THAT WE ARE GRANTED THIS PERSPECTIVE BECAUSE OF OUR HISTORICAL LEADERS OF THE PAST. AND WE CANNOT UNBURY OUR DEAD AND HOLD THEM TO THE UNCHANGING STANDARDS DIFFERENT THAN OUR OWN. IT IS UNREASONABLE AND UNACCEPTABLE AND WE HAVE THIS GREAT 2020 VISION NOW WITH THE NEXT GREATER VISION WILL BE 2030, AND I DO NOT KNOW WHAT ALL WE WILL BE HELD TO IN THE NEXT 10 YEAR STANDARDS. SO, WITH THAT, I THANK YOU FOR YOUR TIME, AND I YEILED THE REST OF MINE.

**SUSAN SMITH:** GOOD AFTERNOON, MAYOR KORS AND COUNCILMEMBERS. I WOULD LIKE TO PROVIDE A LITTLE BIT OF INPUT ON POLICING, IF I MAY. I ATTENDED THE PALM SPRINGS CITIZENS ACADEMY A FEW YEARS AGO, AND AT THAT TIME, I LEARNED SO MUCH ABOUT OUR LOCAL POLICE OFFICERS AND DEPARTMENT AND ALL THAT THEY TAKE CARE OF FOR US TO KEEP US SAFE AND PROTECTED. ONE THING THAT I DISCOVERED IS THAT A FEW YEARS AGO, THEY ANNOUNCED THAT THEY ARE 3 TO 4 OFFICERS SHORT ON THE FORCE AND THAT THEY WERE OFFERING A \$10,000 BONUS OR INCENTIVE TO BRING IN NEW OFFICERS AND UNFORTUNATELY , BECAUSE OF OUR DESERT AREA BEING PRETTY LIMITED AS FAR AS INDUSTRY AND SO FORTH, WE ARE NOT ALL THAT ATTRACTIVE OF AN AREA TO WORK AND MOST OFFICERS EVEN TODAY, I BELIEVE, EVEN COMMUTE FROM DISTANCES OF AN HOUR AWAY, SO I THINK WE NEED TO ADD TO OUR POLICE OFFICER FORCE AND PERHAPS BECAUSE OF CURRENT FINANCIALS, MAYBE TAKE AWAY THAT SUBSTANTIAL INCENTIVE AND REDUCE IT DOWN. BUT I CAME TO PALM SPRINGS IN 1957, I AM A THIRD GENERATION PALM SPRINGS REALTOR AND SO I HAVE LIVED HERE FOR 63 YEARS, GREW UP HERE, AND I FIND THAT THINGS HAVE DRASTICALLY CHANGED AND A LOT OF IT HAS TO DO WITH THE DRUG PROBLEM THAT STARTED AND THE ADDICTION PROBLEM THAT HAS REALLY GOT VERY HEAVY FROM THE EARLY 1970s TO THE MID-1980S. AND IT HAS BEEN AN ISSUE FOR YEARS HERE AND OUR POLICE OFFICERS HAVE IN THE LAST COUPLE OF WEEKS, AS YOU KNOW, THEY HAVE STOPPED CARS FOR MINOR VIOLATIONS TO FIND OUT THAT THERE ARE LOADED GUNS, POUNDS OF METHAMPHETAMINE, AND, YOU KNOW, GUYS ON PAROLE WHO, FOR EXAMPLE, AT THE CORNER OF INDIAN CANYON AND I BELIEVE RACQUET CLUB. SO, THEY HAVE MADE SOME WONDERFUL ARRESTS AND THEY ARE PROTECTING US AND I THINK WE NEED

TO APPLAUD THAT. AND THEN THE OTHER POINT IS THAT WHILE THESE BLM PROTESTS ARE ALLOWABLE, WHAT HAS HAPPENED WITH OUR POLICE FORCE IS THAT WHILE THEY HAVE OFFICERS IN THE FIELD AT FRANCIS STEVENS PARK OR RUTH HARDY PARK OR WHAT HAVE YOU, THEY ALSO HAVE TO DOUBLE THEIR BACKUP FORCE, YOU KNOW, IN CASE OF A RIOT, YOU KNOW, OR THINGS GONE BAD. SO, I WANT TO SAY SOMETHING ABOUT, YOU KNOW, KUDOS TO OUR POLICE DEPARTMENT, I DO NOT THINK THAT OUR POLICE DEPARTMENT NEEDS TO TAKE A KNEE FOR ANYONE. AND I AM SHOCKED, YOU KNOW, WITH THAT KIND OF RHETORIC, BECAUSE LOOK AT OFFICERS VEGA AND ZEREBNY, WHO SACRIFICED THEIR LIFE IN SERVICE TO US. AND THAT WHOLE INCIDENT WAS BASED UPON A GANG-RELATED FAMILY, TWO BROTHERS WERE DEALING DRUGS IN PALM SPRINGS OUT OF THE HOME NEAR VISTA CHINO AND SUNRISE, SO THAT EMPHASIZES MY POINT, AND I AM SORRY THAT SOME PEOPLE HERE HAVE FELT HARASSED, BECAUSE THEY HAVE BEEN PULLED OVER FOR A TAIL LIGHT THAT IS OUT, BUT THAT IS PART OF THEIR JOB BECAUSE IF THEY DO NOT DO THAT, AND THERE IS AN ACCIDENT OF SOME SORT, THEN, YOU KNOW, SOMEONE CAN SAY, WELL, WHY DIDN'T YOU TELL ME OR WHY DIDN'T YOU TICKET ME? ON BEHALF OF FRANK BOGERT, I WANT TO REMIND COUNCIL THAT HE ARRIVED IN PALM SPRINGS AT THE AGE OF 17 YEARS OLD IN 1927, AND HE DID PROVIDE A LOT OF SERVICE TO OUR COMMUNITY. HE LIVED AMONG US. HE LIVED IN THE SAME MODEST HOME FOR MANY, MANY YEARS. AND I KNOW FOR A FACT THAT HE IS A GOOD MAN. AND TO POINT A FINGER AT HIM FOR WHAT HAPPENED WITH THE REDEVELOPMENT OF THE TRIBAL LAND IS WRONG. AND REALLY OBJECT TO ALL THE RHETORIC THAT WE ARE SEEING. THANK YOU VERY MUCH FOR YOUR ATTENTION, I APPRECIATE IT.

**DOTTIE WILDER:** OKAY, MY NAME IS DOTTIE WILDER, AND LET ME FIRST SAY WHAT I TOLD THE COUNCIL BEFORE. LET ME TALK ABOUT WHAT I WAS LISTENING TO THIS MORNING BECAUSE AS FAR AS MY UNDERSTANDING THIS IS ABOUT RACISM AND AS FAR AS FRANK BOGERT AND HIS STATUE, THOSE WHO KNEW FRANK WOULD NEVER CLASSIFY HIM AS A RACIST. I THINK HE WAS A GREAT GUY AND GREAT FOR PALM SPRINGS, BUT AS FAR AS RACISM, I DON'T KNOW HOW YOU LEGISLATE THAT, AND TO ME, NOTHING TO DO WITH SKIN COLOR, IT HAS TO DO WITH THE WAY PEOPLE ACT. THERE IS GOOD AND BAD IN EVERY GROUP. I HAVE CERTAINLY BEEN TREATED LIKE A MINORITY IN THE GROUP AROUND ME IN ALL DIFFERENT ETHNICITIES AND RACE AND WHETHER AT WORK OR OUT AND ABOUT IN PUBLIC. SO, AS FAR AS PEOPLE BEING CONSIDERED UNDERPRIVILEGED, THAT USUALLY HAS TO DO WITH THE FAMILY YOU ARE BORN INTO. AND HOW MUCH MONEY THEY HAD AND, IN OUR SOCIETY, IF YOU WORK HARD ENOUGH YOU WOULD GET AHEAD AND BE ABLE TO ACCOMPLISH MORE THAN THAT. THIS DAY, THE GOVERNMENT TAXES OFTEN TAKES IT AWAY AND GIVES IT TO SOMEBODY ELSE. THEN YOU ARE NOT GOING TO BE ABLE TO GET AHEAD THROUGH YOUR LIFE. BUT AS I RAISE MY KIDS, I DID NOT DESCRIBE PEOPLE BY BASIC THINGS, ONE IS THEIR SKIN COLOR. ONE IS THEIR HEIGHT OR THEIR ETHNICITY. IT IS WHAT IT IS, THAT IS THE WAY WE WERE BORN AND WE MAKE THE BEST OUT OF THE LIFE WE HAVE. AND ANYWAY, THAT IS MY COMMENT. AND I HOPE YOU LEAVE FRANK BOGERT'S STATUE RIGHT WHERE IT IS.

**DOUG EVANS:** THANK YOU VERY MUCH. HONORABLE MAYOR, MEMBERS OF THE CITY COUNCIL. YOU KNOW MY NAME, I AM A PROUD FORMER EMPLOYEE OF THE CITY, I WORKED IN THE PLANNING DEPARTMENT FOR 26 YEARS. I WAS INVOLVED IN PLANNING OF ALL TYPES, TRIBAL RELATIONS AND LOTS OF COMMUNITY MEETINGS AT DESERT HIGHLAND, AND I AGREE WITH JOY ABOUT THE WARMTH OF THOSE

MEETINGS, I GOT SOME OF THE BEST HUGS IN MY CAREER AT THE DESERT HIGHLAND COMMUNITY CENTER. I ALSO WOULD LIKE TO THANK THE COUNCILMEMBERS THAT HAVE TAKEN THE TIME TO TALK ABOUT BOGERT. HIS STORY IS MUCH MORE COMPLEX THAN MOST PEOPLE UNDERSTAND. AS A NEW EMPLOYEE OF THE CITY, I WAS CONCERNED. I DID MY HOMEWORK, I READ EVERYTHING I COULD ON SECTION 14, I READ EVERYTHING I COULD ON TRIBAL RELATIONS, WHY? I HAD WORKED FOR THE CITY OF LONG BEACH AND I FOCUSED FOR A COUPLE OF YEARS ON NEIGHBORHOOD PLANNING DEMOGRAPHICS IN SOME OF THE MORE CHALLENGED NEIGHBORHOODS IN LONG BEACH. IF YOU LOOK AT SECTION 14, THERE ARE HOUSING ISSUES DATING BACK TO THE DEPRESSION. THE TRIBAL COUNCIL AND ITS MEMBERS ASKED THE CITY FOR HELP. FOR OVER 10 YEARS, MANY PEOPLE SERVED ON THE CITY COUNCIL AND THE TRIBAL COUNCIL. THEY WORKED TOGETHER TO TRY AND COME UP WITH SOLUTIONS. THEY CONTACTED MULTIPLE AGENCIES TO ASK FOR GUIDANCE AND HELP. THE FIRST EVICTION NOTICES WERE IN 1951 DURING THE KOREAN WAR, JUST TO KIND OF SET THE STAGE OF WHERE THE COUNTRY WAS. POVERTY WAS SERIOUS, HOUSING CONDITIONS WERE SUBSTANDARD. THE TRIBE AND THE CITY WORKED VERY HARD TO TRY AND CHANGE FEDERAL LAWS GOVERNING INDIAN LAND. MULTIPLE MAYORS WORKED ON THAT. FRANK BOGERT WAS INSTRUMENTAL IN BRINGING GOVERNMENT AGENCIES AND THE PRIVATE SECTOR TO MAKE SECTION 14 RELOCATIONS WORK AS BEST AS THEY COULD FOR THE TIMES. FRANK ACTUALLY ADVOCATED FOR MORE MORATORIUMS ON EVICTIONS. AGAIN, 10 1/2 YEARS BEFORE THE FIRST PERSON WAS MOVED IN SECTION 14. AT THAT TIME, FUNDING SOURCES WERE VIRTUALLY NONEXISTENT. THE TRIBAL LEADERS AND THE CITY COUNCIL AND UPWARDS OF FIVE OR SIX MAYORS TRIED EVERYTHING THEY COULD TO PULL SOMETHING TOGETHER. I WOULD LIKE TO STRAY A LITTLE BIT. SOMEBODY MADE A COMMENT EARLIER ABOUT FRANK BOGERT BEING A CONSERVATOR. HE WAS A CONSERVATIVE CONSERVATOR FOR ONE INDIAN BUT HE WAS A TEENAGER, THAT INDIAN CALLED FRANK BECAUSE HE TRUSTED FRANK AND ASKED FOR HELP. WHEN THAT INDIAN TURNED 21 YEARS OLD, FRANK RELINQUISHED HIS CONSERVATOR POSITION. HE TOLD THE INDIAN; YOU KNOW ENOUGH TO MANAGE YOUR OWN PROPERTY. THAT YOUNG INDIAN WAS A TRIBAL CHAIRMAN. HE WAS A TRIBAL CHAIRMAN DURING THE SECTION 14 YEARS THAT WE HAVE ALL BEEN TALKING ABOUT. FRANK WAS A LEADER AND SUBMITTED TO THE CITY, WORKED HARD TO REPRESENT ALL PEOPLE. HE RESPECTED PEOPLE AND JUDGED PEOPLE BY THEIR CHARACTER, CONTRIBUTIONS AND ACCOMPLISHMENTS. HE DID THIS WHILE BEING MAYOR AND ALSO IN HIS PRIVATE LIFE. THOSE MEN AND WOMEN HAVE STEPPED UP TO BE LEADERS OF THIS CITY, RISKED CRITICISM, SHOW THEM THE RESPECT WHERE THE RESPECT IS DUE. HARD DECISIONS WERE MADE, PEOPLE WERE AFFECTED, BUT THOSE DECISIONS WERE NOT MADE WITH MALICE. LOOK AT THE EARLY LEADERS OF PALM SPRINGS BOTH CITY AND TRIBAL, THEY WERE AMAZING CIVIC MINDED PEOPLE. THEY HAD STRONG PERSONALITIES. THEY WERE PASSIONATE. THEY WERE COMPETITORS, BUT ON BIG ISSUES, THEY WERE COLLABORATORS, THEY CAME TOGETHER TO FIND FOR THE TIMES, THE BEST SOLUTION THEY COULD TO MOVE THE CITY FORWARD. TODAY, PALM SPRINGS'S CHARACTER WAS BUILT BY A CAST OF CHARACTERS, WITHOUT PEOPLE LIKE FRANK BOGERT AND SO MANY OTHERS, WE MAY NEVER HAVE HAD THE OPPORTUNITY TO LIVE AND WORK IN PALM SPRINGS AS WE KNOW IT, IT MAY HAVE JUST REMAINED A PLACE IN THE SAND. THANK YOU FOR LISTENING. I WILL LOOK FORWARD TO ONGOING, MEANINGFUL DISCUSSIONS ABOUT THE CITY, AND ITS HISTORY. IT IS RICH, IT IS COMPLEX, AND WE APPRECIATE YOUR TIME, AND WE KNOW THAT THE CITY COUNCIL WORKS VERY HARD AND WE THANK YOU VERY MUCH.

**GINNY FOAT:** THANK YOU COUNCIL FOR TAKING MY CALL AND THANK YOU FOR KEEPING US SAFE DURING THIS PANDEMIC. I MUST SAY THAT I AM IMMENSELY PROUD OF MY CITY AND FOR THE PEOPLE TAKING THE TIME TO SPEAK UP IN THIS FORUM. I FEEL LIKE I HAVE LISTENED TO AN ANTHOPOLOGY TED TALK, AND EXCEPT FOR ONE VERY PAINFUL RACIST CALL, THIS HAS BEEN AN ABSOLUTE INSPIRATIONAL EXPERIENCE. I'M NOT SO PROUD HOWEVER, OF THE HISTORY OF PALM SPRINGS. AND MOVING TO PALM SPRINGS IN THE 90S I HAD ALWAYS ADMIRERD THE INCREDIBLE MID-CENTURY ARCHITECTURE OF OUR BEAUTIFUL CITY HALL. I COULD NEVER UNDERSTAND WHY THERE WAS THE STATUE OF THE COWBOY IN THE FRONT OF THE BUILDING. SO, I DID SOME RESEARCH. I READ ABOUT HISTORY OF THE PERIOD, THAT MAYOR FRANK BOGERT LED US AND I MUST SAY, I WAS HORRIFIED. YES, OUR CITY WAS THE PLAYGROUND OF THE STARS, BUT THE HORROR THAT WAS PLACED ON THE MOSTLY MINORITY WORKING FOR OUR CITY TO GET US THERE WAS UNFATHOMABLE. UNDER BOGERTS LEADERSHIP, 100S OF FAMILIES LOST EVERYTHING WHILE HE AND THE CITY COUNCIL OVERSAW THE BURNING OF THEIR HOMES AND POSSESSIONS TO CLEAR OUT THE SQUALOR. HIS TERM FROM SECTION 14 DURING THAT TIME, HE WAS AN EXECUTOR OF SOME INDIAN LAND. SO, HE ALSO GOT COMPENSATION. BUT HE NEVER GAVE COMPENSATION TO HELP THE RELOCATION OR ANY OTHER MINOR ASSISTANCE, MUCH LESS, AN APOLOGY WAS NEVER PROVIDED TO THESE FAMILIES AS THEY WATCHED THEIR HOMES AND PERSONAL BELONGINGS GO UP IN FLAMES. IN 2016, I WAS ON THE CITY COUNCIL AND I HAD THE OPPORTUNITY TO REQUEST THAT THE STATUE BE MOVED. UNFORTUNATELY, THE OUTCRY FROM THE PUBLIC, FROM THE ALL-TIME RESIDENTS, DROWNED OUT THE CALL BECAUSE OF WHAT SEEMS TO BE FINALLY IN THE AWARENESS OF RACISM THAT HAD EXISTED AND THE PROTECTION OF OUR COUNTRY, PEOPLE ARE NOW LOOKING AT HISTORY I THINK FROM A DIFFERENT LIGHT. ITS WELL DOCUMENTED THAT FRANK BOGERT WAS RACIST, HOMOPHOBIC, AND THAT IS ALSO WELL DOCUMENTED THAT THE ACT WAS SO HORRENDOUS AND WAS AN NECESSARY FOR AN ATTORNEY GENERAL INVESTIGATION AND THAT INVESTIGATION CONCLUDED THAT IT WAS AN EGREGIOUS ACT OF RACISM. I THINK IT IS TIME TO REMOVE THE SYMBOL OF HATE FROM IN FRONT OF WHAT WE SHOULD REFER TO IT AS THE PEOPLE'S BUILDING. IT WILL NOT MAKE UP OR REMOVE ALL THE PAIN AND HARM THAT IT HAS CAUSED TO ANY OF THE FAMILIES THAT STILL LIVE IN PALM SPRINGS OR THOSE WHO HAVE MOVED SINCE FROM PALM SPRINGS NOR WILL IT ERASE THE RACISM THAT STILL PERMEATES OUR PRESENT. BUT WHAT I THINK IT WILL ACKNOWLEDGE IS THAT WE RECOGNIZE THE RACISM, WE RECOGNIZE THE PAIN AND WE ARE WILLING TO ACT UPON IT BY REMOVING THIS SYMBOL OF HATE. THIS DOES NOT NEGATE THE GOOD THAT HAPPENED TO OUR CITY WHEN FRANK BOGERT WAS THE MAYOR. HE WAS NOT THE ONLY ONE RESPONSIBLE FOR THOSE HORRENDOUS ACTS AT THE TIME. BUT HE IS THE ONLY ONE WITH A STATUE IN FRONT OF THE CITY HALL. AND SO, I ASK THE CITY COUNCIL TO REMOVE THE FRANK BOGERT STATUE, AND THIS ONE SMALL WAY WE ACKNOWLEDGE THE HARM THAT WAS DONE TO SO MANY OF OUR FELLOW PALM SPRINGS RESIDENTS BOTH PAST AND PRESENT. WE CANNOT EXCUSE IT. BY SAYING THAT WAS THEN AND THIS IS NOW. IT IS TIME NOW TO DO THAT, TO RIGHT THAT WRONG. THANK YOU VERY MUCH FOR ALL THAT YOU DO. THANK YOU TO EVERYONE WHO HAS PARTICIPATED ON THIS CALL. IT HAS BEEN A REAL INSPIRATION TO ME.

**RENEE BROWN:** ALL RIGHT, MY NAME IS RENÉE BROWN. BORN AND RAISED IN THE CITY OF PALM SPRINGS. I THINK WE ARE TRYING TO REACH BACK AND CHANGE THE CITY. WE ARE BEING PRETTY HYPOCRITICAL. WE NEED TO GO FORWARD. THIS COUNCIL AND THE COUNCIL BEFORE, VOTED IN SHORT TERM RENTALS WHICH ARE

THE MOST SOCIO - ECONOMICALLY DISCRIMINATORY THING THAT PALM SPRINGS HAS EVER HAD. IN MY NEIGHBORHOOD I USED TO HAVE A NURSE, I USED TO HAVE A MECHANIC, I USED TO HAVE A HAIRDRESSER, I USED TO HAVE A LOT OF PEOPLE WHO COULD AFFORD TO BUY HOMES IN THE DESERT PARK AREA. TODAY NOBODY CAN AFFORD TO BUY A HOME IN THE DESERT PARK AREA BECAUSE AS SOON AS A HOME BECOMES AVAILABLE, THE SHORT-TERM RENTAL COMPANY COMES IN AND BUYS THEM. SO, ANYBODY, AND YOU CAN ASK THE CITY EMPLOYEES, NO CITY EMPLOYEES CAN AFFORD TO LIVE OR RENT. YOU KNOW MY CHILDREN WHO WERE BORN AND RAISED HERE HAVE TO BUY IN THE MORONGO VALLEY BECAUSE WE HAVE A LACK OF AFFORDABLE, MIDDLE INCOME RENTALS. I WILL NOT GET INTO THE RACISM THING. IN PALM SPRINGS, WE HAVE TWO KINDS OF PEOPLE. THE VERY WEALTHY AND THOSE OF US WHO WORK FOR THEM. AND IT HAS ALWAYS BEEN THAT WAY. YOU KNOW? MY FAMILY CAME HERE IN 1948. AND I DON'T SEE THAT WE HAVE DONE ANYTHING TO CHANGE THIS. I WOULD LIKE US TO SEEK OUT TO HIRE LOCAL KIDS ON THE POLICE FORCE. WE ARE TRAINING PUBLIC SERVANTS, TO BE FIREMEN AND POLICE. WHY DON'T WE HIRE THOSE KIDS? THOSE THAT ARE SMOKING POT AT SUNRISE PARK. CRAWFORD USED TO PULL UP IN HIS POLICE CAR AND SAY RENEE I'M TAKING YOU HOME. YOU KNOW THIS SHORT-TERM RENTAL THING DESTROYS THE COMMUNITY. YOU DON'T KNOW YOUR NEIGHBOR. ON MY BLOCK, I HAVE THREE SHORT-TERM RENTALS ON MY BLOCK. THAT MEANS THAT I HAVE THREE LESS NEIGHBORS. I HAVE THREE LESS COMMUNITY PEOPLE THAT I CAN BOND WITH. YOU KNOW? SO, AND THIS CITY COUNCIL, AND THE CITY COUNCIL BEFORE CAN BE HELD RESPONSIBLE FOR THAT SOCIAL ECONOMIC DISCRIMINATION. YOU KNOW? I JUST DO NOT SEE THAT WE CAN HOLD ONE MAN ACCOUNTABLE FOR SOMETHING THAT THE WHOLE CITY COUNCIL, THE CHAMBER OF COMMERCE, THE BUREAU OF TOURISM, ALL OF THOSE PEOPLE WANTED THE PEOPLE IN SECTION 14 GONE BECAUSE IT WAS RIGHT ON INDIAN CANYON AND IT DISTURBED OUR TOURISM BUSINESS. WE ALL HAVE TO LOOK AT SOME OF THE DECISIONS THAT WE MAKE TODAY. WHY DON'T WE HAVE A FUND FOR MINORITY ENTREPRENEURS WHO LIVE IN PALM SPRINGS, TO START BUSINESSES IN PALM SPRINGS. OH GOD FORBID WE ACTUALLY DO SOMETHING. IT IS TIME THAT WE REALLY ADDRESS THE PROBLEM AND NOT TRY TO LOOK BACKWARDS. THANK YOU FOR LETTING ME SHARE.

**STEPHEN BENSON:** HI. THANK YOU FOR THIS FORUM. THAT SHOWS A LOT OF COURAGE. I HAVE THREE SPECIFIC QUESTIONS REGARDING POLICING. LAST MONTH MY TWO SISTERS AND I, ONE SISTER TEACHES AT RANCHO MIRAGE HIGH SCHOOL, AND THE OTHER SISTER IS A REGISTERED NURSE IN NORCO. AT THAT DEMONSTRATION WHICH I SEE A LOT OF FACES HERE THAT I SAW THERE. PEOPLE WORE MASKS. PEOPLE WERE OBSERVING PHYSICAL DISTANCE. AND IT WAS A CELEBRATORY, DESPITE THE SUBJECT, IT WAS CELEBRATORY GATHERING WHEN WE STARTED THERE WERE COMMUNITY SERVICE OFFICERS IN UNIFORM AND UNARMED. WHEN WE FINISHED MY SISTERS AND I TURNED AROUND TO LEAVE AND WE SAW OURSELVES SURROUNDED BY PALM SPRINGS ARMED POLICE. OKAY? WHAT I WANT TO KNOW IS WHAT WAS THE MESSAGE BEING SENT? AND ALSO, HOW MUCH DID THAT STAND COST OUR POLICE DEPARTMENT? THE NEXT QUESTION IS, HOW MANY LAWSUITS AGAINST THE PALM SPRINGS POLICE CURRENTLY ACTIVE AND WHAT IS THE COST? THE COST OF THE DEFENSE AND THE COST OF THE POTENTIAL AWARDS? IN THE PAST, HOW MANY LAWSUITS HAS PALM SPRINGS POLICE DEPARTMENT LOST? AND HOW MUCH DID THAT COST US? THESE ISSUES MUST BE ADDRESSED. NOW, THE NEXT AND MOST IMPORTANT ISSUE THAT I HAVE TO BRING UP IS ON THE COVID-19 RESPONSE. IF WE DO NOT MANAGE THIS PANDEMIC, NOTHING ELSE THAT WE DO OR TALK ABOUT HERE WILL MATTER. WE NEED TO BRING BACK MASKING AND IT

NEEDS TO BE ENFORCED. IF WE NEED TO PASS A CITY ORDINANCE THAT ESTABLISHES A FINE, AND THE POLICE NEED MONEY, LET'S GIVE THEM 30% FROM EVERY TICKET THEY WRITE FOR NOT WEARING A MASK, FOR NOT OBSERVING SOCIAL DISTANCING, FOR OPENING ALL OF THE BUSINESSES THAT SHOULD BE CLOSED. THIS IS IMPORTANT TO ME. BECAUSE I AM IN SEVERAL OF THE RISK CATEGORIES. I AM OLD. AND I HAVE COPD. AND I RECENTLY WENT THROUGH A SUMMER OF CHEMOTHERAPY. THIS DISEASE WILL QUITE LIKELY KILL ME. AND IT NEEDS TO BE ADDRESSED, THANK YOU.

**DENNIS MOORE:** HELLO MY NAME IS DENNIS MOORE. I'M GOING TO BE A FRESHMAN AT PALM SPRINGS HIGH SCHOOL IN AUGUST. I'M A RESIDENT OF THE DESERT HIGHLAND COMMUNITY. I WANT TO TALK ABOUT AN INCIDENT THAT I HAD WITH THE PALM SPRINGS POLICE DEPARTMENT. IT HAPPENED IN NOVEMBER, A COUPLE OF YEARS AGO. I WAS GOING OUT TO MY UNCLE'S CAR TO GET SOMETHING. ALL OF A SUDDEN, THE POLICE OFFICER COMES UP AND ASKED ME WHAT I'M DOING WITH THE CAR. AND IF I WAS STEALING. AND I JUST WONDERED, WHY ME? IT KIND OF MADE ME FEEL SAD THAT THAT COULD HAPPEN TO LIKE A KID. THAT IS ALL, THANK YOU FOR YOUR TIME.

**SHAWNDA FAVEAU:** HI. I'M GLAD THAT YOU CAN HEAR ME. I WANTED TO CALL TO THE ATTENTION THAT WITH THE POLICING, FIRST OF ALL. THERE HAVE BEEN A COUPLE OF INCIDENCES IN THE DESERT HIGHLAND COMMUNITY, THAT THE POLICE HAVE BEEN CALLED. AND IN THAT MOMENT THAT THE POLICE WERE CALLED, UNFORTUNATELY WHEN THE POLICE COME, THEY DO NOT ARREST THE PERSON, THEY SIMPLY GUIDE THAT PERSON AWAY FROM WHATEVER ACTIVITY THAT THEY ARE DOING. THEN PEOPLE IN OUR COMMUNITY DO NOT FEEL LIKE THEY'RE BEING HEARD. ONCE THEY CALLED THE POLICE, THE POLICE COME, THE POLICE DO NOT ARREST THE PERSON WHO'S DOING SOMETHING ILLEGAL AND THE PERSON IS LET GO. THERE WAS AN INCIDENT OF VANDALISM AT THE JOJ. THE POLICE CAME, THAT PERSON WAS APPREHENDED, THE PERSON CAME BACK AND PEOPLE IN THE COMMUNITY FELT LIKE THEY WERE AT RISK, AGAIN. THAT PERSON WAS LET GO. THAT PERSON WAS NOT ARRESTED A SECOND TIME. SO, IT IS UNFORTUNATE WHEN THAT SOMETIMES WHEN THE POLICE OFFICER COMES TO THE DESERT HIGHLAND COMMUNITY MEETING, THEY DON'T COME WITH A WARM RECEPTION. FOR INSTANCE, IF A POLICE OFFICER IS DRIVING IN THE COMMUNITY, THEY DON'T WAVE TO THE COMMUNITY MEMBERS. THEY DON'T TRY TO REACH OUT IN ORDER TO FIND OUT HOW COMMUNITY MEMBERS ARE. ITS JUST THAT THEY COME ACROSS SO ROUGH. AND IN MY INTERACTION WITH THE POLICE, I HAVE NOT HAD THAT KIND OF INTERACTION BEFORE. UNTIL I MOVED TO THE DESERT HIGHLAND COMMUNITY. I GREW UP IN LOS ANGELES IN THE SILVERLAKE AREA AND EVEN THE POLICE CAME TO MY HOUSE JUST TO CHECK ON A FALSE ALARM, THEY ASKED ME WHY I CHOSE TO LIVE IN THAT COMMUNITY BECAUSE I WAS FROM SILVERLAKE. SO, THERE IS A GAP OF COMMUNICATION WITH THE POLICE OFFICERS, BEING ABLE JUST TO TALK TO THEIR COMMUNITY AS HUMAN BEINGS. AND OTHER COMMUNITY MEMBERS DO NOT WANT TO COME ON AND TALK BECAUSE THEY HAVE SAID THIS TIME AND TIME AGAIN, FOR INSTANCE, THE FRANK BOGERT STATUE. IT IS OFFENSIVE TO A LOT OF PEOPLE IN THE COMMUNITY. BUT WE FEEL THAT WE HAVE NOT BEEN HEARD WITH IT BEING MOVED OR TAKEN DOWN, PREFERABLY TAKEN DOWN. THE COMMUNITY HAS SPOKEN TIME AND TIME AGAIN SAYING, HEY, THIS IS AFFECTING US, THIS IS HURTING US. WE ARE THEN REACHED WITH OH IT IS OKAY, IT'S NOT THAT BAD. AND IT FEELS LIKE IT IS FALLEN UPON DEAF EARS. I HAVE LIVED IN THE DESERT HIGHLAND COMMUNITY FOR LITTLE BIT OVER TWO YEARS. PALM SPRINGS HAS BEEN



WONDERFUL IN EMBRACING ME AS THE NEW PUBLIC ARTS COMMISSIONER. I'M EXTREMELY HAPPY AND EXCITED TO CONTRIBUTE TO THE COMMUNITY AND TO PALM SPRINGS IN ORDER TO HAVE ART HEAL OUR COMMUNITY. BUT IN ORDER FOR US TO DO SO IN ORDER FOR US TO HEAL, WE HAVE TO ACKNOWLEDGE THAT THERE IS A PROBLEM HAPPENING AND WE ARE NOT LISTENING TO EACH OTHER. PLEASE LISTEN TO THE BLACK COMMUNITY AND HEAR THEM WHEN WE SAY ENOUGH. MOVE THE STATUE, PLEASE. HAVE THE POLICE OFFICER COME INTO THE COMMUNITY WITH MORE RESPECT. WHEN THEY GO TO YOUR COMMUNITY, THEY ARE FINE, WHEN THEY COME TO OUR COMMUNITY, THEY ARE NOT. SOME OF THEM ARE AND SOME OF THEM ARE NOT. I FEEL LIKE IT IS TIME THAT WE SHOULD ALL ACKNOWLEDGE THAT WE HAVE MADE MISTAKES IN THE PAST. THIS IS A CITY THAT IS READY TO GROW AND MOVE FORWARD. AND NOW IS THE TIME THAT WE GET TO MAKE THESE AMAZING CHANGES IN GOVERNMENT IN OUR COMMUNITY AND IN OUR LIVES. WE GET TO BE THE PEOPLE THAT WE WISHED OUR PARENTS WERE. THAT WE STOOD UP MORE FOR RACISM, WE HAVE THAT OPPORTUNITY NOW TO CHANGE IT. AND THIS CITY, WE GET TO BE THE EXAMPLE THAT OTHER CITIES LOOK AT. AND TO TAKE IT INTO CONSIDERATION HEY, IF PALM SPRINGS CAN DO IT, ANYBODY CAN. SO LET'S TAKE THIS TIME AS HUMAN BEINGS TO JOIN TOGETHER AND TO LISTEN TO ONE ANOTHER, TO FINALLY COME TOGETHER AND SAY OKAY, THAT WAS OUR PAST, THIS WILL BE OUR NEW FUTURE. JOINING TOGETHER, COMING TOGETHER AS A COMMUNITY, HAVING THE FUNDS THAT POLICE HAVE NOT BEEN ABLE TO UTILIZE CORRECTLY, BEING PUT BACK INTO THE COMMUNITY. SO, THE COMMUNITY CAN UTILIZE IT, FOR MENTAL HEALTH, FOR SOCIAL PROGRAMS. THIS IS OUR TIME TO SHINE. I MOVED TO PALM SPRINGS SO I COULD MAKE A DIFFERENCE. I REALLY LOVE THE COMMUNITY HERE AND DESERT HIGHLAND IS A BEAUTIFUL, WONDERFUL COMMUNITY WHEN YOU TAKE THE TIME, GET TO LEARN AND KNOW THE PEOPLE THAT LIVE IN THE COMMUNITY. DON'T JUDGE THEM BY THE COLOR OF THEIR SKIN. THIS IS THE TIME THAT PALM SPRINGS GET TO BE THE MOST AMAZING CITY. PLEASE, PLEASE, I'M ASKING ALL OF US TO RISE TO THE OCCASION AND BECOME THE CITY THAT COMES TOGETHER TO BE EQUAL TO ONE ANOTHER AND MAKE PALM SPRINGS A SAFER, HAPPY, UNIFORM, HARMONIOUS PLACE. THANK YOU.

**DIETER CRAWFORD:** GOOD AFTERNOON COUNCIL, MAYOR AND STAFF. MY NAME IS DIETER CRAWFORD, I AM A GRADUATE OF LOMA LINDA UNIVERSITY HEALTH - SAN MANUEL GATEWAY COLLEGE. I CURRENTLY WORK AS A COMMUNITY HEALTH WORKER WITH DESERT CLINIC PAIN INSTITUTE. I'M VICE PRESIDENT OF THE DESERT HIGHLAND GATEWAY ESTATES COMMUNITY ACTION ASSOCIATION AND I'M ALSO A BOARD MEMBER OF THE PALM SPRINGS BLACK HISTORY COMMITTEE. MY FAMILY MOVED HERE TO PALM SPRINGS AND SETTLED IN SECTION 14 AGUA CALIENTE INDIAN RESERVATION IN 1951. I JUST WANT TO SPEAK ON THE TOPIC OF SYSTEMIC RACISM. THE BLACK COMMUNITY HAS A LONG HISTORY OF DISTRUST WITH THE CITY OF PALM SPRINGS AND IT DATES BACK TO SECTION 14. MANY OTHER SPEAKERS BEFORE ME, HAVE SPOKEN ON THAT AS WELL. WE KNOW THAT THE CITY WAS FOUNDED ON DISCRIMINATORY HOUSING PRACTICES. THERE WERE DEED RESTRICTIONS TO KEEP AFRICAN AMERICAN AND LATINO FAMILIES FROM LIVING IN CERTAIN PARTS OF THE CITY. I RECENTLY HAD THE OPPORTUNITY TO READ THE ATTORNEY GENERAL REPORT FROM 1968 WHICH SAYS THAT THE CITY OF PALM SPRINGS NOT ONLY DISREGARDED THE RESIDENTS OF THE SECTION 14 AS PROPERTY OWNERS, TAXPAYERS AND VOTERS, PALM SPRINGS IGNORED THE RESIDENTS OF SECTION 14 AND DID NOT VIEW THEM AS HUMAN BEINGS. THE REPORT CALLED IT A CITY ENGINEERED HOLOCAUST. AND I WORK IN PUBLIC HEALTH, MY BACKGROUND IS IN PUBLIC HEALTH, SO WE LOOK AT A LOT OF OUR SOCIAL DETERMINANTS OF

HEALTH. THE HISTORY OF PALM SPRINGS HAS LED TO SOME OF THOSE DISPARITIES AND INEQUITIES. YOU SEE IT IN THE HIGH-END INCARCERATION RATES. YOU KNOW, THERE IS DRUG AND GANGS TARGETING THE COMMUNITY OVER THE YEARS. WE HAVE NOT SEEN THOSE SAME TYPES OF THINGS OR USE OF POLICE FORCE IN OTHER NEIGHBORHOODS. COUPLE YEARS BACK, RESIDENT HOMES WERE RAIDED AT 5:00 A.M. WITH ARMORED VEHICLES FOR A MINOR DRUG OFFENSE THAT MEMBERS OF THE COMMUNITY HAD COMMITTED. WE KNOW THAT EVERY TIME THAT I AM STOPPED, POLICE ASK ME IF I'M ON PROBATION OR PAROLE. WE KNOW THAT THE CITY IS ONLY 5% BLACK. BUT BLACKS ARE 13% OF THE US. WE SEE THAT AS WELL DEALING WITH THE FOOD DESERT ISSUE. THE NEAREST GROCERY STORE TO DESERT HIGHLAND IS 2.5 MILES, BUT WE CAN EASILY GET CANNABIS, ALCOHOL AND TOBACCO IN A SHORT WALK. CANNABIS DEVELOPMENTS HAVE BASICALLY TAKEN OVER THE NEIGHBORHOOD SINCE 2016. THERE HAVE BEEN 11 CITY PERMITTED CANNABIS BUSINESSES, WITH NO SEPARATION FOR RESIDENTS IN THE NEIGHBORHOODS. MEMBERS OF OUR NEIGHBORHOOD HAVE BEEN ASKING FOR OUTDOOR RESTROOMS AT DESERT HIGHLAND FOR MANY YEARS AND WE ARE THE ONLY PARK IN THE CITY THAT DOES NOT HAVE OUTDOOR RESTROOMS. WE EVEN SAW IN THE DISTRICT ELECTIONS THAT THE DEMOGRAPHER FOUND RACIALLY POLARIZED VOTING. WE HAD A PAST MAYOR AND ONE OF THE CITY COUNCIL MEMBERS WHO DID NOT EVEN WANT TO VOTE TO SWITCH TO DISTRICT ELECTIONS. SO, THERE IS A LONG HISTORY OF RACISM IN THE CITY. AND IS STILL EXISTS AS WELL. THE ENCOUNTERS WITH THE POLICE AND THE COMMUNITY HAVE BEEN WELL DOCUMENTED. WE OFTEN SPEAK TO THEM AT OUR REGULAR COMMUNITY MEETINGS. WE ARE THE OLDEST ORGANIZED NEIGHBORHOOD ORGANIZATION. WE WERE FOUNDED IN 1967, TO FIGHT THESE VERY ISSUES THAT WE ARE TALKING ABOUT. I WOULD JUST LIKE TO SEE THE CITY TAKE MORE OF AN EQUITY APPROACH TO COMBAT RACISM. THERE IS A BIG DIFFERENCE IN EQUITY AND EQUALITY. I WOULD LIKE TO SEE US INVESTING IN SOCIAL PROGRAMS, SO RECREATION, HOUSING, EDUCATION, PHYSICAL AND MENTAL HEALTH, SUBSTANCE ABUSE PROGRAMS. I WOULD ALSO LIKE TO SEE US OFFER ASSISTANCE FOR BLACK BUSINESSES AND NONPROFITS. PALM SPRINGS AWARDS SOME CITY CONTRACTS TO BLACKS AND MINORITY BUSINESSES BUT ALSO TO OFFER WORKFORCE DEVELOPMENT TRAINING AND JOB TRAINING. AS A COUPLE OF SPEAKERS BEFORE ME SAID, INVEST IN OUR RESIDENTS. WHEN WE SAY DEFUND THE POLICE, WE DON'T MEAN DEFUND THE POLICE. WE MEAN REALLOCATE THE FUNDING. I JUST WANT TO THANK YOU GUYS FOR HAVING THIS MEETING. AND TO GIVE US THE TIME TO HAVE THIS FORUM AND THIS DISCUSSION. AGAIN, MY NAME IS DIETER CRAWFORD. THANKS AGAIN FOR YOUR TIME AND CONSIDERATION.

**DAVID CHRISTIAN:** I WILL BE MIRRORING SOME OF THE EXCELLENT COMMENTS THAT WERE MADE BY DOUG EVANS, RENEE BROWN AND JAMES CIOFFI. I HAVE WORKED REALLY HARD FOR YEARS IN OUR LOVELY CITY. AND I HAVE BEEN A RESIDENT AND ARCHITECT HERE FOR OVER HALF A CENTURY. I FIRST CAME OUT HERE IN 1951 WITH MY PARENTS. IF YOU'VE EATEN DOWNTOWN, YOU'VE PROBABLY EATEN IN ONE OF THE RESTAURANTS THAT I HAVE DESIGNED. I SPENT 25 YEARS ON THE PALM SPRINGS ARCHITECT ADVISORY COMMITTEE. I WAS ALSO A PLANNING COMMISSIONER, SO I'M SENSITIVE TO A LOT OF THE ISSUES THAT YOU HAVE ON YOUR SIDE OF THE TABLE. I GUESS I HAVE PUT MY HEART AND SOUL TO TRY TO MAKE THE CITY I LOVE A BETTER PLACE FOR ALL OF US TO LIVE. AND REGARDING THE STATUTE, I KNEW FRANK BOGERT FOR DECADES. QUITE SIMPLY, NOBODY MADE PALM SPRINGS THE SPECIAL PLACE IT IS EXCEPT FOR FRANK. AS A MULTI TERM MAYOR HE LITERALLY PUT PALM SPRINGS ON THE MAP, INTERNATIONALLY AND NATIONALLY AS WELL. AND I FEEL THE CURRENT LOCATION IS APPROPRIATE TO

HIS OVERALL HISTORY HERE. AND ONE OF THE THINGS I WANT TO COMMUNICATE ABOUT FRANK IS HE HAD ALMOST A THEATRICAL, ROUGH, PERSONAL MANNER. HE HAD A REALLY DRY WIT AND A WARM HEART AND HE WAS THE MOST CASUAL WITH INSULTING HIS PERSONAL FRIENDS. AND WHO I KNEW WELL AND HE WAS A FAVORITE TARGET AND A WORTHY ADVERSARY FOR FRANK. I MEAN FRANK HAD HIS HANDS FULL, IN TERMS OF PRANKS AND INSULTS. FRANK WAS BORN IN 1910. 110 YEARS AGO AND UNFORTUNATLY, OBVIOUSLY, MOST OF HIS THOUSANDS OF FRIENDS DIED DECADES AGO, BUT IN SPITE OF THAT MORE THAN 1,800 TO DATE, IN HIS FACEBOOK SUPPORT GROUP, ALMOST ALL OF THOSE KNEW FRANK PERSONALLY AND THEY SPEAK OF HIM WITH AFFECTION, THIS SPECIAL MAN WITH A LOT OF INFLUENCE. I REALLY WOULD ENCOURAGE A LOT OF PEOPLE TO READ SOME OF THOSE, THOUSANDS OF STORIES. AGAIN, THESE PEOPLE THAT KNEW HIM WELL. AND TO DECIDE, TO CALL HIM A RACIST, AND I THINK EVERYONE WILL APPRECIATE AND FIND SOME HUMOR IN THIS. HIS FIRST WIFE WAS JEWISH. AND YEARS LATER, SOMONE WAS INTERVIEWING HIM AND THEY TOOK OFFENSE TO HIM AND SAID QUOTE IF YOU REALLY NEED TO GET SOMETHING DONE, GIVE IT TO A PRETTY MEXICAN WOMAN. AND THE PERSON WAS OFFENDED AND THEY PROBABLY DID NOT REALIZE THAT HE HAPPENED TO BE MARRIED TO A PRETTY MEXICAN WOMAN. THAT PROBABLY DID NOT HELP HIS CREDITIAL IN NOT BEING RACIST. BUT SECTION 14 WAS A TERRIBLY DIFFICULT SITUATION. AND SADLY, IS ONE OF THE THINGS THAT HAS PLAYED OUT THOUSANDS AND THOUSANDS OF TIMES, NOT JUST ACROSS THE COUNTRY, BUT AROUND THE WORLD. WHEN I WAS A PALM SPRINGS PLANNING COMMISSIONER, A PHRASE THAT WOULD COME UP, AT SIMILARLY DIFFICULT TIMES WAS **THE GREATEST GOOD, FOR THE GREATEST NUMBER.** AND THAT SORT OF PATH IS WHY WE HAVE EMINENT DOMAIN. IT'S A LEGAL PRINCIPAL WHICH ALLOWS THE DEVELOPMENT TO BE DONE WITH THE GREATEST GOOD FOR THE GREATEST NUMBER AND SOMETIMES IT IS A VERY PAINFUL PROCESS. AND THIS PRINCIPAL WAS IMPLEMENTED TO ACCOMMODATE DIFFICULT SITUATIONS LIKE SECTION 14. AND IN THIS CASE, THE SECTION 14 RESIDENTS WERE OF ILLEGAL STATUS OVER A LONG PERIOD OF TIME AND THOSE EVICTIONS DID NOT HAPPEN OVERNIGHT. YOU HAVE LOTS OF HISTORY AND THERE IS A LOT MORE AVAILABLE TO CONFIRM THIS. AND MUCH OF THIS WILL BE PART OF THE RECORD OF THIS MEETING. I SENT IN QUITE A BIT TO THE CITY CLERK. AND THE PALM SPRINGS HISTORICAL SOCIETY HAS VOLUMES ON THIS TOPIC. AND BY THE WAY, A PALM SPRINGS POLICE DEPARTMENT RECORD IN 1961, THERE WAS A REPORT STATED THAT THERE WERE **115 FAMILIES OF COLOR THAT WERE DISPLACED BY THE ACTIONS. BUT THERE WERE 321 WHITE FAMILIES DISPLACED,** BUT THAT'S SORT OF AN ODD PROPORTION FOR SOMETHING THAT SAID THAT WAS RACIALLY MOTIVATED. AND I HAVE NO DOUBT THAT IT WAS A TREMENDOUS HARDSHIP, AND IT WAS A WOEFULLY TRAGIC EXPERIENCE FOR THE PEOPLE THAT WERE INVOLVED. BUT IT HAD TO BE DONE. AND IT WAS NOT DONE AT THE SOLE ASSISTANCE OF FRANK BOGERT, WHO IS THE VILLAN OF CHOICE TODAY. IT WAS DONE BY AND WITH THE CITY OFFICIALS AND THE LANDOWNERS AND THE AGUA CALIENTE TRIBE WHO PRIMARILY WANTED TO DEVELOP THE LAND AND HAD EVERYTHING TO GAIN AND PRIMARILY BY ANOTHER WONDERFUL PIONEER WHO FINALLY CONVINCED THE FEDERAL GOVERNMENT TO ALLOW 99 YEAR LEASES. THERE IS AN EXCELLENT BOOK BY THE WAY, YOU CAN'T EAT DIRT, THAT SPENDS A LOT OF TIME ON THIS EXACT TOPIC. IN FACT, THE FIRST PROJECT, ONCE IT WAS CLEARED WAS A HOTEL AND IT WAS A MASSIVE SHOT IN THE ARM FOR DOWNTOWN PALM SPRINGS AND THE FUTURE IMAGE OF THE CITY. AGAIN, IT WAS A COLLECTIVE EFFORT. FRANK DID NOT ACT ON HIS OWN WITHOUT THE CITY OF PALM SPRINGS PARTICIPATION IN IT. HE DID NOT HAVE THAT POWER, THAT IS ANOTHER FACT. AND THIS REALLY HIT A SORE POINT WITH A LOT OF US THAT HAVE LIVED HERE

FOR MANY DECADES AND HAVE HELPED BUILD THE CITY. WE FEEL THAT OUR HISTORY AS BEING GROSSLY MISREPRESENTED. IT TAKES A LONG TIME, TO BE HONORED WITH THE INSULT OF DESERT RED AND EVEN HAVE THE TERM LONGTERM RESIDENT BE ADDED TO YOUR NAME AND A LOT OF US CARRY THOSE TERMS WITH A FIERCE PRIDE. I KNOW THAT WE ARE IN DIFFICULT TIMES BUT WE FEEL THAT THIS CANNOT BE HANDLED BY ZOOM MEETING. MY FIRST HOPE IS THAT THE DOCUMENTATED FACTS ARE SAID AND I JUST WANT THE FACTS TO BE EXAMINED AND THAT THE STATUTE REMAINS WHERE IT IS AND IF THIS GOES TO A MORE FORMAL VENUE WHERE WE CAN SHOW OUR SUPPORT FOR FRANK AND THE COUNCIL CHAMBERS WILL NOT COME CLOSE. I THINK WE HAVE A GREAT POLICE DEPARTMENT. OH, ALSO, AND I HAD A GREAT RELATIONSHIP WITH REVEREND ROLLINS WHEN I WAS THE ARCHITECT FOR DESERT HIGHLAND. THAT IS A GREAT COMMUNITY UP THERE AND I HOPE THAT WE CAN IMPROVE THE RELATIONSHIPS. MY RELATIONSHIP WAS ALWAYS GREAT. I WOULD SUGGEST THAT EVERYONE NOT FOCUS ON TEARING EVERYTHING DOWN BUT TRY BUILDING THINGS UP. THAT IS NOT SO EASY. THANK YOU VERY MUCH FOR YOUR TIME.

**KARENA:** HI. MY NAME IS KARENA. I AM A LOCAL FROM THE COACHELLA VALLEY, BORN AND RAISED ON THE EAST END OF THE VALLEY. I'M MEXICAN, EQUADORIAN AND FILIPINO, SO LOTS OF CULTURE THERE. I AM ACTUALLY CALLING TO SHARE A LITTE OF MY PERSONAL EXPERIENCE. SORRY, I AM GETTING EMOTIONAL. WITH MY WORK IN PALM SPRINGS. I USED TO WORK AT THE PALM SPRINGS ART MUSEUM. AND I DON'T KNOW WHY I AM SO EMOTIONAL, SORRY. WHILE I WORKED THERE, WE HAD THIS INCREDIBLE EXHIBIT FILLED WITH LOTS OF BEAUTIFUL INDIGENOUS ARTISTS. AT THAT TIME, I'M NOT SURE WHAT HAPPENED, BUT ONE OF THE INDIGENOUS WOMEN, THE ARTIST, SHE CAME AND SHE WAS SUPPOSED TO HAVE LIKE A COMMUNITY WORKSHOP. SOMETHING HAPPENED AND SHE ASKED TO CANCEL HER CONTRACT. I DON'T KNOW, THERE ARE NO SPECIFICS. SHE CANCELED HER CONTRACT, AND SHE ASKED FOR HER ART TO BE PULLED. THERE WAS NO, AGAIN I DON'T KNOW THE DETAILS, BUT THE SENTIMENT OF WORKING AT THE MUSEUM KIND OF DROPPED ESPECIALLY FOR WOMEN, BROWN WOMEN. I TRIED TO BRING IT UP TO HR. AND WHEN I BROUGHT IT TO HR, I WAS TOLD THAT THEY CANNOT BELIEVE THAT SOMEONE WOULD BE RACIST TOWARDS ME. AND I JUST THINK THAT WHEN WE'RE TALKING ABOUT WAYS TO MOVE FORWARD AND SOMEONE MENTIONS ABOUT CULTURE AND ART AND KIND OF THE RELATIONSHIP THAT THE CITY COUNCIL HAS WITH THE PRIVATE INSTITUTIONS THAT ARE BIG IN THEIR CITY, WHEN I THINK OF PALM SPRINGS I DO THINK OF THE PALM SPRINGS ART MUSEUM AND THE TOURISM THAT THAT MUSEUM BRINGS AND HOW ANGRY I AM AT THEM STILL. WHEN I WAS IN MY EXIT INTERVIEW, I MENTIONED THAT THEY DID NOT DO ANYTHING TO TALK ABOUT RACE AND INCLUSION EVEN THOUGH I DID SPEAK TO ALL OF THE MANAGERS THERE. AND I WILL SAY THAT THERE IS SOME INCREDIBLE PEOPLE THAT USED TO WORK THERE, I'M NOT SURE WHO WORKS THERE ANYMORE. BUT THEY JUST KIND OF CANCELED ALL CONVERSATIONS ABOUT RACE AND DIVERSITY AND INCLUSION. AND THEN WHEN I TOLD HR IN MY INTERVIEW ABOUT THAT, THEY SAID WELL, WE DON'T SEE COLOR. WE CAN'T. YOU KNOW. IT WAS KIND OF A DISMISSING OF THE KIND OF CONVERSATION THAT I WANTED THERE. SO, I JUST WANTED TO BRING THAT TO THE CITY COUNCIL AND HOPE THAT WHEN YOU THINK ABOUT DOING BUSINESS WITH THE PALM SPRINGS ART MUSEUM, THAT THEY THINK ABOUT THE PAIN THAT THEY BRING TO EMPLOYEES AND LOCALS. AND I KNOW OTHER PEOPLE EXPERIENCED THINGS LIKE ME AND THEY ARE VERY SCARED OF RETALIATION FROM THE BOARD. I FOUND THAT REALLY SADDENING. HOW THESE INDIVIDUALS AND SOME HAVE BEEN LET GO NOW AND I TELL THEM TO SPEAK UP

AND THEY TELL ME THAT THEY FEAR RETALIATION. WHICH MAKES ME NERVOUS BECAUSE I'M HERE, I MOVED BACK AFTER 17 YEARS AWAY, I WAS IN THE BIG CITIES AND I DO WANT TO BE A PART OF THE CHANGE OF PALM SPRINGS AND THE REST OF THE COACHELLA VALLEY. ESPECIALLY FOR ME BEING LATINA AND THE THINGS THAT WE HAVE TO FACE WITH OUR OWN RACISM AND THE BLACK COMMUNITY AND THESE ARE ALL THINGS THAT I WANT TO BE APART OF. SO, I JUST WANTED TO SHARE MY OWN PERSONAL EXPERIENCE THAT I'VE HAD IN PALM SPRINGS. BYE.

**CAROL DAVIS:** MY NAME IS CAROL DAVIS, AND I WAS BORN AND RAISED IN THE CITY OF PALM SPRINGS. I SERVED ON THE PARKS AND REC COMMISSION FOR ABOUT SIX YEARS, I SERVED ON THE BLACK HISTORY SUBCOMMITTEE FOR ABOUT SEVEN YEARS. AND I JUST HAVE BEEN A PART OF THIS COMMUNITY. I FIRST WOULD LIKE TO START AND SPEAK ON THE POLICE. I HAVE ATTENDED A MEETING, OR SEVERAL MEETINGS, AT THE GATEWAY DESERT HIGHLAND COMMUNITY MEETING. I THINK ONE OF THE PAST SPEAKERS TALKED ABOUT HOW ONE OF THE, OR SOME OF THE OFFICERS WHEN THEY CAME TO THOSE MEETINGS, THEY DON'T GIVE THE SAME RESPECT THAT THEY GIVE TO OTHER MEETINGS WHERE YOU MIGHT SEE THEM THROUGHOUT THE CITY. AND AT THIS ONE PARTICULAR MEETING, THAT I WAS A PART OF, THERE WAS IT WAS AT A TIME WHEN THERE WAS A MURDER. I GUESS THE POLICE OFFICERS WERE NOT ABLE, OR STILL HAD NOT BEEN ABLE TO SOLVE THE MURDER AND THEY WERE FRUSTRATED AND YOU COULD SEE THE FRUSTRATION FROM THE MOMENT THAT THEY WALKED INTO THAT ROOM. WHEN THEY WALKED IN THAT ROOM, THAT ROOM WAS INTIMIDATING, THEY CAME OUT AND WERE SOFT-SPOKEN IN THE BEGINNING, AND AS THE MEETING WENT ON IT WAS MORE ABOUT HOW PEOPLE ARE RESPONSIBLE TO COME OUT AND TO HELP THEM SOLVE THESE PROBLEMS, AND IF THEY DON'T HELP THEM SOLVE THESE PROBLEMS, THESE PROBLEMS WILL NOT BE SOLVED. AND IT GOT TO A POINT WHERE ONE OF OUR ELDER RESIDENTS SPOKE TO THEM AND SAID THAT THEY DON'T FEEL SAFE COMING TO THEM OR EVEN CALLING THEM BECAUSE THEY HAVE HAD A SITUATION WHERE THEY HAVE CALLED THE POLICE AND TOLD THEM BEFORE THEY CAME OUT, WHEN YOU COME OUT DO NOT COME TO MY DOOR. DO NOT COME TO MY DOOR BECAUSE I LIVE IN THIS COMMUNITY, EVERYBODY IN THIS COMMUNITY KNOWS ME. I AM AN ELDERLY PERSON, WHO LIVES IN THIS HOME ALONE. DO NOT COME TO MY DOOR. WHAT DO THEY DO? THE MINUTE THAT THEY CAME OUT THEY CAME AND KNOCKED ON THE DOOR AND ASKED THEM WHAT WAS ON GOING THROUGH EVERYTHING THAT THEY SPOKE ABOUT ON THE PHONE, AND THEREFORE THEY DID NOT FEEL SAFE. NOW I DON'T KNOW IF THIS HAPPENS ALL THE TIME. BUT THE REASON WHY AM BRINGING THIS UP IS BECAUSE OF THE DISCONNECT. I UNDERSTAND HOW EVERYONE IS TRYING TO COME TOGETHER AND TALK IN REASON, THIS THAT AND THE OTHER. BUT IF YOU HAVE PEOPLE THAT ARE JUST THERE TO POLICE AND NOT UNDERSTAND THE COMMUNITY AND DON'T WANT TO BE THERE, THERE IS NO NEED TO SEND THEM OUT. BECAUSE IT IS ONLY GOING TO BE BACK AND FORTH AND BACK AND FORTH, BUTTING HEADS. BACK WHEN MY KIDS WERE YOUNGER, MY EX-HUSBAND AND I WERE PART OF THE POLICE ACTIVITIES LEAGUE. OUR KIDS PARTICIPATED WITH POLICE OFFICERS, OFFICER KUNZ AND JAVIER GARCIA RAN THE PROGRAMS. THESE KIDS WERE DIVERSE. YOU HAD KIDS WHO CAME FROM MEANS, KIDS THAT DID NOT COME FROM MEANS, PEOPLE THAT WERE WORKING-CLASS, BUT THESE PARENTS CAME TOGETHER TO HELP COACH. THESE KIDS KNEW THE POLICE OFFICERS, THEY HAD THEIR CELL PHONE NUMBERS. THESE OFFICERS CHECKED UP ON THEM AT SCHOOL, THEY PRACTICED WITH THEM EVERY WEEK. SO, IF THEY HAD PROBLEMS, THEY HAD A CONNECTION. SINCE THIS DISCONNECT, YOU JUST WANT TO POLICE AND YOU KNOW IT JUST DOES NOT WORK. I THINK THAT IS WHAT REALLY HELPED. SO THAT

IS ONE OF THE THINGS. AS FAR AS I WOULD LIKE TO SPEAK ABOUT THE STATUE. I MEAN, IF WE MOVE THE STATUE, WE MOVE THE STATUE BUT IF WE DON'T TELL THE TRUTH, TELL THE WHOLE TRUTH. BECAUSE THAT IS WHAT IS WRONG WITH OUR HISTORY AS IT IS. WE WANT TO SEPARATE BLACK HISTORY FROM AMERICAN HISTORY. AND IT IS ALL OF OUR HISTORY BUT WE WANT TO HALFWAY ONE SIDE IT. TELL THE TRUTH. THAT IS IT. WHEN WE BRING OUR KIDS IN FRONT OF THE CITY HALL, THE PLACE OF THE PEOPLE AND OUR KIDS ARE ON FIELD TRIPS AND STANDING IN FRONT OF THAT STATUTE TAKING PICTURES, THEY NEED TO KNOW WHO THIS PERSON IS. NOT JUST ONE SIDE OF IT. THAT IS ALL THAT I HAVE TO SAY. OH, ONE MORE THING BEFORE YOU CUT ME OFF. I WOULD LIKE TO SPEAK ABOUT THE WHOLE RECOGNITION OF PEOPLE OF COLOR IN THE CITY AND LAWRENCE CROSSLEY. YOU KNOW, WE JUST HAD THAT MURAL PAINTED, OF GEORGE FLOYD. NOW GEORGE FLOYD IS NOT FROM HERE, THIS IS TRUE. BUT WHY IS THAT THE ONLY THING THAT WE HAVE TO LOOK AT IN PALM SPRINGS OF SOMEBODY OF COLOR? YOU KNOW, WHEN I PASS BY, IT IS LIKE A SHOCK WHEN I GET TO THE LIGHT THERE. AND THEN ONCE I PASS IT, I HAVE TO SMILE BECAUSE THAT IS THE ONLY THING THAT WE HAVE. AND WE GO BACK AND FORTH ABOUT THE LAWRENCE CROSSLEY NAME, WHERE ARE WE AT IN THE HISTORICAL SIDE? WHEN YOU GO DOWNTOWN AND ASK SOMEBODY ABOUT WHERE BLACK PEOPLE ARE IN THE CITY OF PALM SPRINGS, THEY HAVE TO GO DIG IN THE ARCHIVES. YOU HAVE TO COME BACK NEXT WEEK. WE ARE NOT THERE. AND IF THE ONLY THING THAT WE HAVE TO GO BACK TO IS SECTION 14, WE ARE BIGGER THAN THAT, WE ARE BETTER THAN THAT, WE ARE MORE THAN THAT. SO THAT IS BASICALLY ALL THAT I HAVE TO SAY. BUT I DO HAVE TO THANK THE COUNCIL PEOPLE FOR PUTTING THIS TOGETHER. I'M GLAD THAT EVERYBODY HAS FOUND IT IMPORTANT TO SHOW UP. SO, THANK YOU.

**JILSKA CHANDRASENA** - THANK YOU SO MUCH FOR GIVING US THIS OPPORTUNITY TO SPEAK TO THE CITY COUNCIL. I WANT TO THANK YOU FOR THE WONDERFUL JOB YOU GUYS ARE DOING. AS A RESIDENT OF PALM SPRINGS, FOR THE LAST TWENTY-SEVEN YEARS, LOOKING AT RACISM, BEING ALSO AN IMMIGRANT, A PERSON OF COLOR LIVING HERE FOR THE LAST TWENTY-SEVEN YEARS. I DO FEEL, I REALLY FEEL THE PAIN THAT OUR MINORITY COMMUNITY ARE SPEAKING WITH. IT IS HISTORY. YESTERDAY WAS HISTORY, TOMORROW IS A MYSTERY. WE HAVE TO LIVE IN THE PRESENT. AND WE ARE FACED WITH SO MANY CHALLENGES IN OUR PRESENT. OUR CHILDREN ARE ASKING US QUESTIONS ABOUT THE PRESENT. WE CANNOT HAVE HISTORY THAT HAS GIVEN US SO MUCH PAIN. WE NEED TO MOVE PAST THAT. SO THAT IS SOMETHING, I THINK IT IS COMMON SENSE TO ASK OUR COMMUNITY MEMBERS WHO ARE INVESTED IN THIS COMMUNITY TO LOOK AT THE PAIN AND HEAR THE PAIN OF THE MINORITY COMMUNITY. AND DO WHAT IS RESPONSIBLE. BECAUSE WE DON'T KNOW WHAT TOMORROW IS GOING TO BRING. MY NEXT CONCERN, IN MY CITY, BEING SIX YEARS SERVING THE CITY OF PALM SPRINGS AS A HUMAN RIGHTS COMMISSIONER, BEEN AN ADVOCATE FOR THE DISABLED AND FOCUSING ON MENTAL HEALTH IN OUR COMMUNITY, MY NEXT CONCERN FOR MY COMMUNITY IS OUR HOMELESS POPULATION AND OF MENTAL HEALTH IN OUR COMMUNITY. IT IS VERY IMPORTANT. WE ARE ASKING, WE HAVE HAD MANY PEOPLE SPEAK AND JANEL, YOU HAVE A WONDERFUL STORY. WE'VE HEARD THESE PEOPLE TALK ABOUT MENTAL HEALTH, THE POLICE DEPARTMENT. IT IS NOT ABOUT CHANGING, IT IS NOT ABOUT DEFUNDING, IT IS NOT ABOUT DISTRUCTIVE THINGS BUT WE NEED TO CHANGE THE GAME. WE HAVE TO CHANGE THE MODEL OF SERVICES THAT WE PROVIDE FOR THIS CITY. AND MENTAL HEALTH IS RIGHT ON TOP OF THE KNIFE. IF WE DO NOT ADDRESS MENTAL HEALTH IN OUR COMMUNITY THIS CITY WOULD LOSE A LOT OF

FINANCES. THERE WILL BE SO MUCH FIDUCIARY ABUSE WITHIN US. I AM JUST SPEAKING ABOUT THE PEOPLE THAT I SERVE AS A MENTAL HEALTH PROFESSIONAL, WHO ARE ON PSYCHOTROPIC DRUGS IT IS SUCH A DISTRUCTIVE THING THAT I CANNOT BELIEVE THAT SUCH A SMALL CITY, SUCH A SMALL COMMUNITY, HAS SO MUCH GOING TO THE STREETS. OUR HOMELESS POPULATION, 60% OF OUR HOMELESS POPOULATION ARE NOT REGISTERED VOTERS IN OUR CITY, THEY ARE OUT OF OUR CITIES. SO, WE HAVE OUR CANNABIS SHOPS TAKING SOCIAL SECURITY CHECKS, EBT CARDS, AND THEY ARE TAKING THE CANNABIS TO THE HOMELESS POPULATIONS. AGAIN, I DON'T KNOW ABOUT WHERE THE LAW ENFORCEMENT, WHERE THE INVESTIGATIONS ARE BUT IT IS A VERY DIRE SITUATION. WE NEED TO ADDRESS THESE THINGS AS A COMMUNITY. MENTAL HEALTH, WE NEED TO HAVE MENTAL HEALTH TASK FORCE. OUR POLICE STAFF HAVE TO DO POLICE THINGS BUT WE NEED TO HAVE A SYSTEMATIC CHANGE IN HOW WE DEAL WITH THE WELLNESS CHECKS IN OUR POPULATION. WE NEED TO HAVE PEOPLE WHO ARE, WHO HAVE THE ABILITY TO GO OUT AND LOOK AT OUR MENTAL HEALTH POPULATION AND FOCUS ON THE HOMELESS POPULATION IN THAT CATEGORY OF THE MENTAL HEALTH NEEDS AS A COMMUNITY, THIS IS SOMETHING THAT WE NEED TO DO. THANK YOU VERY MUCH.

**ORON JACKSON:** HI, HOW ARE YOU? I HAVE HEARD A LOT FROM THE PARTICIPANTS ABOUT MOVING FORWARD. I GUESS GETTING PAST THE PAST. IT IS DIFFICULT TO MOVE FORWARD IF WE FAIL TO ADDRESS THE SINS OF THE PAST. AND TELL THE TRUTH. I HEARD A GENTLEMAN SPEAK OF FRANK BOGERT IN HIGH REGARD. HE ALSO MENTIONED SECTION 14. HE TALKED ABOUT DOING GOOD FOR THE GREATEST AMOUNT OF PEOPLE. FRANK BOGERT HAS RACISM ATTACHED TO HIM, THAT IS WELL DOCUMENTED. THE ATROCITIES THAT TOOK PLACE ON SECTION 14 ARE WELL DOCUMENTED. AND AS THIS PERSON JUSTIFIED THIS YOU HAVE TO UNDERSTAND THAT THESE PEOPLE WHO WERE MOVED FROM SECTION 14 AS DIETER CRAWFORD SO ELIQUENTLY STATED BUT THE LAND DEEDS DID NOT ALLOW THESE FOLKS TO GO OUT TO THE COMMUNITY AND PURCHASE HOMES. MANY OF THESE FOLKS MOVED TO THE RIVERSIDE AREA, BANNING, AND SOME OF THE OTHER AREAS ON THE OUTSKIRTS OF PALM SPRINGS. THIS HITS HOME WITH ME BECAUSE MY GRANDMOTHER WAS THE FIRST AFRICAN AMERICAN PERSON TO PURCHASE A HOME IN DESERT HIGHLAND AREA IN 1958. AND AT THAT TIME, THAT WAS CONSIDERED COUNTY LAND. HAD A FEW RESIDENTS, BUT THEY WERE ALL WHITE. AND AS MY UNCLE, WHO WAS A VETERAN, HE COULD NOT SECURE A LOAN FOR THIS PARTICULAR AREA. HE ACTUALLY HAD TO GO TO LOS ANGELES AND RECEIVE A LOAN THERE. AND WHEN FOLKS WANTED TO VIEW THE LAND MANY TIMES, THEY WOULD HAVE TO TAKE THEM OUT THERE AT NIGHT TO AVOID SCRUTINY FROM THE OTHER RESIDENTS. AND WHEN THEY WERE ABLE TO SECURE LOANS WHEN THEY WERE ABLE TO BEGIN BUILDING, THE RESIDENTS RAN THE BUILDERS OFF OF THE LAND. MY GRANDMOTHER HAD TO GET THEM TO COME BACK AND OF COURSE, ONCE THEY WERE ABLE TO BUILD THIS PROPERTY, OTHER AFRICAN-AMERICANS BEGAN TO COME TO THE COMMUNITY AND AS HISTORY GENERALLY TELLS US ONCE THAT HAPPENS THERE'S A SITUATION CALLED WHITE FLIGHT THAT TAKES PLACE. AND AS THESE PEOPLE IN THESE COMMUNITIES MOVE FORWARD, ITS BEEN AT LEAST TWICE, PARTICULARLY I REMEMBER A TIME IN THE 1980S, EMINENT DOMAIN, AGAIN THE GENTLEMAN TALKED ABOUT DOING THE GREATER GOOD FOR THE GREATEST AMOUNT OF PEOPLE. I FOUND THAT TO BE AN INTERESTING STATEMENT, GIVEN THE FACT THAT THIS COMMUNITY IS IN THE NORTH END THE MOST NORTHERN PART OF THE CITY. AND WHY THAT LAND WOULD BE EVEN CONSIDERED FOR EMINENT DOMAIN. SO, UNTIL WE ADDRESS SOME OF THE SINS OF THE PAST, IT IS KIND OF LIKE DROPPING BRICKS ON SOMEBODY'S HEAD AND TELLING THEM THAT IT IS RAINING. AND ABOVE ALL, ONCE THIS WHITE

FLIGHT TOOK PLACE IN THIS NEIGHBORHOOD YOU KNOW IT REALLY CREATED A SITUATION CALLED RED LINING. I KNOW YOU ALL ARE PROBABLY NOT FAMILIAR WITH THAT. SO, WHEN WE TALK ABOUT SEGREGATION, THE REDLINING CREATED SEGREGATION IN THE CITY. AND THOSE INSTITUTIONAL PRACTICES REALLY DREW THE LINE BETWEEN THE HAVE AND HAVE NOT. WE NO LONGER NEED TO SEGREGATE PEOPLE IN THIS COMMUNITY. IT IS DONE THROUGH REDLINING. SO, YOU KNOW, MAYBE SOMEHOW, WE CAN FIND A WAY TO CREATE SOME OPPORTUNITIES, AS MS. CRAWFORD SO ELOQUENTLY PUT IT. JUST THE SITUATION OF EQUITY, AND IN TERMS OF THE POLICING IN THE CITY, THAT HAS ALSO BEEN WELL DOCUMENTED OVER TIME. AND I JUST WANT TO SHARE ONE THING WITH YOU BEFORE I GO. MY COUSIN WHO IS ON THE LINE RIGHT NOW. HIS MOTHER CALLED THE POLICE ON HER OWN SON BECAUSE HE WAS ON DRUGS AND HAD DESTRUCTIVE BEHAVIOR. SHE REALLY THOUGHT BY INCARCERATING HIM THAT THIS WOULD GIVE HIM AN OPPORTUNITY TO GET CLEAN. IT WOULD GIVE HIM AN OPPORTUNITY TO MAYBE EVEN MOVE ON WITH HIS LIFE BY RECEIVING SOME HELP. AND SO, WHEN THEY PICKED HIM UP, THEY TOLD HIM WHO CALLED THE POLICE ON HIM. SO AS CAROL DAVIS TALKED ABOUT THE LACK OF COMMUNICATION, POSSIBLY THE DISTRUST, IT IS THOSE SITUATIONS THAT ARE ALSO WELL DOCUMENTED. WE DON'T HAVE TIME TO GO OVER ALL OF THOSE THAT CREATES RISK IN THE COMMUNITY AND THOSE THAT ARE PROTECTING THE COMMUNITY. THANK YOU.

**CORRINE GRISWOLD:** HI. I JUST RETIRED AS A TEACHER FROM RAYMOND CREE MIDDLE SCHOOL WHICH I WAS REALLY SORRY TO QUIT. I QUIT BECAUSE OF THE VIRUS; I REALLY LOVE TEACHING THERE. AND I WOULD LIKE TO PROPOSE BUILDING OFF OF WHAT CAROL DAVIS SAID, TO PUT UP A STATUE OF LAWRENCE CROSSLEY. IN FACT, MOST OF WHAT I KNOW ABOUT LAWRENCE CROSSLEY BESIDES THAT HE BUILT MOST OF THE CROSSLEY TRACK. THIS IS FROM FRANK BOGERT'S BOOK. HE CAME HERE IN 1924. HE WAS AN INVESTOR IN HOTELS, HE BUILT THE CROSSLEY TRACK. HE DESIGNED GOLF COURSES. SO, I THINK THAT THERE SHOULD BE A MONUMENT IN PALM SPRINGS AND THROUGH CITY HALL TO SOMEBODY LIKE LAWRENCE CROSSLEY. THAT IS PRETTY MUCH WHAT I WANTED TO SUGGEST. THANK YOU.

**KAREN JOY:** OKAY. I JUST WANTED TO LET PEOPLE KNOW THAT IT IS NOT ONLY THE BLACK COMMUNITY THAT GET STOPPED WHEN THEY ARE ON PAROLE. MY SON IS NO ANGEL, BUT HE WAS IN JAIL FOR ABOUT SIX MONTHS AND HONESTLY, EVEN WHEN HE WAS IN HIGH SCHOOL, BECAUSE HE IS VERY TALL. HE IS 6'8". HE STANDS OUT IN THE CROWD. AND THE COPS ARE CONSTANTLY PICKING HIM UP, CONSTANTLY. IT IS A HARASSMENT. HE HAS A 12-YEAR-OLD SON. WHEN HIS SON IS IN THE CAR WITH HIM, HE IS SCARED TO DEATH EVERY TIME HE SEES THE COP CAR. HE THINKS THAT THE COP IS GOING TO TAKE HIS DAD TO JAIL. SO IT IS NOT ONLY BLACK PEOPLE. I THINK THAT THE POLICE SHOULD HAVE BETTER THINGS TO DO THAN TO ACTUALLY PICK ON PEOPLE THAT MAY HAVE NOT BEEN PERFECT CITIZENS. BUT HE HAS A GOOD HEART AND THERE IS NO REASON FOR THIS. THAT IS ALL THAT I'VE GOT TO SAY.

**ANDREA ROMERO:** OKAY. THANK YOU SO MUCH FOR HAVING THIS AND FOR OPENING THE DISCUSSION ON RACE RELATIONS IN OUR COMMUNITY. I AM ANDREA ROMERO, I AM 26 YEARS OLD, I AM A FIRST-GENERATION LATINA. I'M THE FIRST PERSON IN MY FAMILY TO GO TO COLLEGE. AND LAST AUGUST I MOVED TO PALM SPRINGS BECAUSE I GOT AN INTERNSHIP WITH THE ART MUSEUM. AND SO, I WAS REALLY EXCITED, THIS WAS MY FIRST REAL INTERNSHIP AFTER COLLEGE. AND AFTER MY



INTERNSHIP I WAS HIRED FULL TIME, THIS WAS MY FIRST REAL JOB AFTER COLLEGE, I REALLY FELT LIKE I WAS GETTING MY LIFE GOING. I GOT MY FIRST APARTMENT I SPENT ALL OF MY SAVINGS MOVING TO PALM SPRINGS. BUT UNFORTUNATELY, UNDER THE MANAGEMENT THAT CAME ON LAST AUGUST TO THE PALM SPRINGS ART MUSEUM, ENDED UP BEING A REALLY TOXIC SPACE, ESPECIALLY FOR PEOPLE OF COLOR. I DON'T KNOW EXACTLY HOW SPECIFIC I NEED TO GET. BUT I WILL SAY THAT YOU KNOW, THERE ARE A LOT OF EMPLOYEES THAT HAVE BEEN SUFFERING. THERE A LOT OF EMPLOYEES THAT WILL NOT SPEAK UP, EVEN AFTER THEY HAVE BEEN FURLOUGHED, EVEN AFTER THEY HAVE BEEN FIRED. BECAUSE, YOU KNOW, THEY DON'T WANT TO LOSE THEIR JOBS. THERE ARE NOT A LOT OF JOB SECURITY IN THE DESERT FOR ARTS PEOPLE BECAUSE THERE IS ONLY ONE MUSEUM. SO THAT MUSEUM IS BEING UNJUST, ESPECIALLY TO THE MARGINALIZED COMMUNITY I REALLY FEEL WE REALLY NEED TO DO MORE. WE NEED TO PUT MORE PRESSURE ON THIS INSTITUTION. THIS INSTITUTION REPRESENTS THE ENTIRE COACHELLA VALLEY, THIS IS THE LEADING ART INSTITUTION IN THE COACHELLA VALLEY. AND YOU KNOW, AS AN ART INSTITUTION, THAT SITS ON SACRED CAHUILLA LAND THERE SHOULD BE NO TOLERANCE OF ANY KIND OF INSTITUTIONAL RACISM ON ANY LEVEL. AND WITH MY EXPERIENCE THERE, I FOUND THAT HR DOES NOT PROTECT EMPLOYEES. IT ONLY PROTECTS THE EXECUTIVE STAFF. I DEALT WITH MICRO AGGRESSIONS FOR MONTHS AND THEN FINALLY I REQUESTED A MEETING WITH HR. FOUR DAYS LATER, I WAS FIRED OVER EMAIL. AND YEAH, THAT WAS IN OCTOBER AND ITS BEEN A HARD HEALING PROCESS. I DON'T KNOW IF I WILL EVER WANT TO WORK IN A MUSEUM AGAIN, EVEN THOUGH THIS HAS BEEN MY CAREER PATH FOR YEARS. IT IS REALLY HARD BECAUSE, YOU KNOW, UNLESS YOU ARE IN THE MUSEUM, UNLESS YOU WORK THERE, YOU ARE A VOLUNTEER, PEOPLE DON'T UNDERSTAND THE KIND OF RELATIONSHIPS AND THE KINDS OF TENSION OF EVERYTHING THAT IS GOING ON UNDER THE SURFACE. AGAIN, THE NEW MANAGEMENT, THE NEW CEO, THE NEW CHIEF CURATOR, I WAS THERE BEFORE AND I WAS THERE AFTER THEY CAME ON. AND I FELT THE SHIFT IMMEDIATELY. YOU KNOW, THE MUSEUM WAS NEVER PERFECT TO BEGIN WITH. BUT SHORTLY AFTER, AFTER THESE PEOPLE CAME ON, IT GREW MORE AND MORE TOXIC. THERE IS SO MUCH EVIDENCE OF THAT. BUT I DON'T KNOW IF HR IS RECORDING ALL OF THIS. I DON'T THINK SO, CONSIDERING THE FACT THAT WHEN I WENT TO THEM FOR HELP, THEY FIRED ME ON BEHALF OF THE PERSON THAT I WAS EXPERIENCING MICRO-AGGRESSION FROM. SO, THIS IS REALLY JUST UNETHICAL. THIS IS SOMETHING THAT REALLY NEEDS TO BE AUDITED. MUSEUMS ALL OVER THE COUNTRY ARE RAISING THEIR STANDARDS. THEY ARE PLEDING TO TAKE ACTION BEYOND WORDS. THEY ARE COMING OUT WITH CONCRETE PLANS TO MAKE SURE THAT INSTITUTIONAL RACISM IS NEVER AGAIN PRESENT YOU KNOW IN THESE ENVIRONMENTS. THESE ARE LEARNING ENVIRONMENTS. THESE ARE COMMUNITY ENVIRONMENTS. AND THIS MUSEUM, AGAIN, IT SITS ON SACRED CAHUILIA LAND. SO WHERE IS THE JUSTICE FOR PEOPLE OF COLOR? THAT ARE SUFFERING BECAUSE OF THIS INSTITUTION. THIS INSTITUTION HAS NATIVE AMERICAN ART ALL OVER THEIR WALLS. THEY PRIDE THEMSELVES ON HAVING A MEXICAN MODERNIST COLLECTION THAT ARE COMPARABLE TO SOME OF THE BEST COLLECTIONS IN THE COUNTRY. SO WHY DO THEY TREAT THEIR EMPLOYEES OF COLOR LIKE TRASH? THAT IS MY QUESTION. THE OTHER QUESTION IS, WHY DO THEY KEEP GETTING AWAY WITH IT? I KNOW THAT I'M NOT THE ONLY PERSON THAT HAS COMPLAINED ABOUT THE MUSEUM. BUT FOR SOME REASON, NOTHING EVER CHANGES. WHENEVER SOMEBODY DOES FEEL BRAVE ENOUGH TO SPEAK UP, THEY MIGHT GET AN APOLOGY AT BEST. AND THEN EVERYTHING IS SWEEPED UNDER THE RUG ALL OVER AGAIN. WHEN I GOT FIRED IN OCTOBER, I DID NOT HAVE MONEY TO MOVE BACK HOME UNTIL JANUARY.

I DEPLETED MY SAVINGS. I HAD TO BREAK MY LEASE WITH MY FIRST APARTMENT THAT I EVER HAD. NOW I AM IN DEBT THAT IS NOW IN COLLECTION, THAT I DON'T KNOW WHEN I WILL BE ABLE TO PAY BACK AND AGAIN THIS IS A CONSEQUENCE OF HAVING TOXIC MANAGEMENT, TOXIC PEOPLE IN LEADERSHIP. THIS IS THE CONSEQUENCE OF HAVING AN HR DEPARTMENT THAT IS NOT ADHERING TO LAWS, TO STANDARDS. THERE IS A WHISTLEBLOWING POLICY RIGHT? SO I KNOW FOR A FACT THAT TWO PEOPLE WHO OVERHEARD HOW MANAGEMENT WAS TREATING ME ON DAILY BASIS, HOW THEY WERE TALKING TO ME, AS THE TUTORIAL ASSISTANT, THEY OVERHEARD AND I KNOW FOR FACT THAT TWO PEOPLE, THAT HAD BEEN THERE FOR YEARS BEFORE ME, THEY BOTH COMPLAINED UNANIMOUSLY TO HR. THEY COMPLAINED TO HR. AND THAT IS WHAT GAVE ME THE COURAGE TO GO AFTER MONTHS OF EXPERIENCING THESE AGGRESSIONS AND TO GO TO HR AND SAY HEY, YOU KNOW SOMETHING IS HAPPENING. AND YOU KNOW WHAT, I'M NOT OKAY. AND YOU KNOW WHAT, THIS IS MY FIRST JOB EVER. THIS IS MY FIRST REAL JOB; I DID NOT WANT TO LOSE THAT JOB. I PUT UP WITH SO MUCH. I PUT UP WITH MY MANAGER ASKING ME IF I HAD EVER FINISHED A COLLEGE PAPER. AND MANY OTHER THINGS. ANYWAY, I WILL WRAP IT UP. I REALLY WANT TO SEE THE MUSEUM AUDITED BY A THIRD PARTY. HR IS UPHOLDING WHITE SUPREMACY; THEY ARE UPHOLDING RACISM AND DISCRIMINATION. LASTLY, JUST TO PULL IT ALL TOGETHER, THE ONLY PEOPLE IN LEADERSHIP POSITIONS NOW, THERE ARE NO MINORITIES THERE IN POSITIONS OF LEADERSHIP. THERE IS NO ONE THERE TO REPRESENT PEOPLE LIKE ME. AS THE CHIEF CURATOR AND THE ONLY CURATOR LEFT RIGHT NOW, SHE IS A WHITE WOMAN. SHE IS A CURATOR OF NATIVE AMERICAN ART AND HAS BEEN FOR THE LAST TWENTY-THREE YEARS BECAUSE NOTHING EVER CHANGES AT THIS MUSEUM. SO, I WANT TO SEE THE MUSEUM AUDITED. I WANT TO SEE THE CITY PUTTING PRESSURE ON THE MUSEUM. I WANT HR AUDITED BY A DIVERSITY AGENCY. I KNOW THAT MANY, MANY OTHER MUSEUMS, FOR EXAMPLE, MODA IN LOS ANGELES, WHERE I HAVE ALSO WORKED, RECEIVED A THIRD-PARTY AUDIT FOR THEIR HR DEPARTMENT. WE HAVE RECEIVED MANY TRAININGS THANK YOU SO MUCH FOR LISTENING. I REALLY HOPE THAT WE SEE SOME ACTION.

**JANEL HUNT:** IN CLOSING I WOULD LIKE THANK THE MAYOR AND THE CITY COUNCIL FOR OPENING THE DIALOGUE. EVERYONE THAT JOINED TODAY HAS SHOWN LOVE AND PASSION FOR PALM SPRINGS. WHETHER BE THE DESERT HIGHLAND ESTATES AREA OR OTHER AREAS. I WOULD LIKE TO REITERATE THE WRONGS THAT NEED TO BE ADDRESSED. IN ORDER FOR HEALING TO BEGIN. IF YOU TRULY WANT TO MAKE AMENDS, AND MAKE THE WRONGS THAT NEED TO BE ADDRESSED, HEALED, WE NEED TO START LOOKING AT THE STATUE THAT IS IN FRONT OF THE CITY HALL. DO YOUR OWN RESEARCH. START WITH THE ATTORNEY GENERAL'S REPORT FOR SECTION 14 IN 1968 THERE IS NOTHING WRONG WITH YOU GOING OUT THERE AND LOOKING AT THAT. AND LET'S GET THE LAWRENCE CROSSLEY NAME CHANGED ALL THE WAY THROUGH. NOT JUST PART OF IT BUT ALL OF IT. LET'S RECOGNIZE WHAT BLACK PEOPLE HAVE DONE HERE IN PALM SPRINGS. CHANGING THE NAME IS NOT ANYTHING THAT IS HURTING ANYBODY OR HINDERING ANYBODY BECAUSE OF AN ADDRESS CHANGE. BUT THE WRONGS NEED TO BE MADE RIGHT. AND REALLY TAKE A LOOK AT TRAINING FOR OUR POLICE DEPARTMENT AND LET'S REALLY TRULY BE GENUINE ABOUT OUR HEART AND WHETHER WE ARE DOING THE RIGHT THING FOR THE RIGHT PURPOSE. THANK YOU.

**ELIZABETH DOLORES:** I WANT TO GO AHEAD AND JUST COMMENT ON THE FACT THAT THE LAST TIME THAT WE WERE TALKING ABOUT OUR BUDGET THERE WERE PHONE CALLS MADE FROM PEOPLE THAT WERE NOT RESIDENTS OF PALM SPRINGS. AND I WOULD LIKE TO ASK THE CITY COUNCIL, THE CITY, AND EVERYBODY WHO IS IN CHARGE OF TAKING IN COMMENTS AND PHONE CALLS TO TRY TO SOMEHOW DISTINGUISH THE ACTUAL RESIDENTS THAT HAVE ACTUAL RESIDENCY. OR ARE INVOLVED WITH THE CITY BECAUSE THEY ACTUALLY LIVE HERE OR THEY PAY TAXES HERE IN OUR CITY. JUST MAKE SURE THAT WE SOMEHOW FIGURE OUT A WAY THAT WE CAN HAVE ONLY CITY PEOPLE, LIKE RESIDENTS OF THE CITY OF PALM SPRINGS SPEAK ON OUR CITY THAT WE PROVIDE FOR, THAT WE GIVE INTO, THAT WE LIVE IN. I WOULD GREATLY APPRECIATE IT. THANK YOU GUYS HAVE A WONDERFUL DAY.

## Attachment F

Adopted March 8, 2021

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### *City of Palm Springs Apology For its Role in the Destruction of Section 14*

WHEREAS, From 1930 to 1965, many working class Black, Indigenous and people of color lived and built homes on a square mile of land owned by members of the Aqua Caliente Band of Cahuilla Indians, known as Section 14, in downtown Palm Springs. This was the primary residential area for Black, Indigenous and people of color in Palm Springs. This community was diverse, rich in tradition and proud of its unique cultural identities; and

WHEREAS, In 1959 when Indian land became available for long-term leases, commercial development of the land became possible. By 1964, the City of Palm Springs began executing a plan to demolish all existing property on Section 14; and

WHEREAS, The City encouraged conservators for Indians owning the land to terminate the leases or rentals of the land. Many of the conservators were local judges and attorneys; some city officials were conservators themselves. The City, using public funds, cleared the land. Homes and personal belongings owned by the inhabitants were destroyed and burned by the City, often ignoring required notice provisions. Up to 1,000 residents were displaced and the community was destroyed. The California Attorney General found, "evidence of unusual cooperation between developers, the Indian conservators, and the city of Palm Springs, in the demolition of Section 14."; and

WHEREAS, The City of Palm Springs kept no official records of the persons displaced and the residences destroyed in Section 14 and there is no record of any attempt at determining that each homeowner and resident had been properly served with eviction notices; and

WHEREAS, Accompanying the destruction of homes in Section 14 was the continuing disregard for relocation of these residents. Due to racial covenants in Palm Springs, many Black residents moved to Beaumont or Banning. Other Black residents moved north to buy land then outside city limits where they built mid-century homes in a formerly defunct housing tract resulting in de facto racial segregation; and

WHEREAS, In 1968, the Attorney General found the City of Palm Springs not only disregarded the residents of Section 14 as property-owners, taxpayers, and voters; Palm Springs ignored that the residents of Section 14 were human beings. We recognize, acknowledge, and accept the 1968 Department of Justice Attorney General's report, "Palm Springs, Section 14 Demolition." The report charges homes belonging to minority residents of Section 14 "were destroyed by a city-engineered holocaust; and

WHEREAS, While the harm caused by the Section 14 removal cannot be erased, we lift up and acknowledge those connected to this land, and we acknowledge the impact the City's actions have had; and

WHEREAS, Today, individuals and families who endured forced removals and clearances are still impacted by a legacy of racism, separation and lack of resources. Before healing can begin for families and descendants of those removed from Section 14, the City must acknowledge the hurt in our history of urban renewal and the impact inflicted on Palm Springs' Black, Indigenous and People of Color; and

NOW, THEREFORE, be it resolved that we, the undersigned members of the Palm Springs City Council recognize that Black, Indigenous, People of Color and other working class residents' homes and property were destroyed by the razing of Section 14; and regret the tremendous harm caused and mourn the lost sense of community caused by the demolition of this neighborhood; be it further

RESOLVED, We do hereby apologize for the City government's role in the destruction of Section 14, and affirm that the lessons learned from the City's actions will forever be remembered. We further commit to advance racial and social equity, diversity, inclusion, and fairness and to work to address and undo systemic racism and its continuing impacts; be it further

RESOLVED, The Human Rights Commission and the City of Palm Springs Equity & Social Justice Committee, appointed by the City Council, will bring specific actions to address systemic racism and recommendations on advancing social justice.

# Attachment G

## Draft - Human Rights Commission Proposed Resolution - 4/28/21

### RESOLUTION OF THE CITY OF PALM SPRINGS HUMAN RIGHTS COMMISSION RECOMMENDING THE REMOVAL OF THE FRANK BOGERT MONUMENT FROM THE FRONT OF PALM SPRINGS CITY HALL.

WHEREAS, A monument to Frank Bogert, which was installed on the Palm Springs City Hall lawn, on March 31, 1990, to honor and recognize decades of service to the community,<sup>1</sup> is also widely perceived as an offensive and painful public reminder of a legacy of urban renewal that banished the vast majority of people of color from the city limits, and the present realities of systemic racism<sup>2</sup> born out of his mayoral leadership from 1958-1966;<sup>3</sup> <sup>4</sup>and

WHEREAS, Collaborating with local businessmen and attorneys, Mayor Bogert and Palm Springs civic leaders persecuted<sup>5</sup> their lower-income constituents who resided on the land owned by local Tribal Members.<sup>6</sup> Attempting to dispossess the Indians of their tribal lands, and erase any blighted neighborhoods that might degrade the city's resort image, Palm Springs officials developed and implemented a plan that included having non-Indian conservators appointed by a local judge to manage the Indians land claiming they were unable to manage it for themselves. The successful implementation of this plan resulted in the removal of the city's people of color and restructured the race and class configuration of the city;<sup>7, 8</sup> and

WHEREAS, Under Frank Bogert's leadership, in 1964, the City of Palm Springs approached the conservators appointed by Judge Hilton McCabe with a plan to raze Section 14. The city

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<sup>1</sup> The Wall Street Journal, April 4, 2009, by Stephen Miller, Longtime Mayor Helped Make Palm Springs a Mecca.

<sup>2</sup> Refers to the structures and institutions in society that serve to oppress people of color.

<sup>3</sup> Resolution approved by the Brothers of the Desert November 7, 2020; Loren Miller, Jr., Palm Springs Section 14 Demolition, report by California Department of Justice, Office of the Attorney General, May 31, 1968. Regrettably, no low-cost or affordable housing plan was realized to care for Black, Indigenous, persons of color and other working class families displaced under city directed forced evictions.

<sup>4</sup> Ryan M. Kray, *The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs*. In fashioning this exclusive community, Palm Springs city officials at mid-century implemented a locally funded urban renewal/"Negro removal" campaign that, by effectively banishing the vast majority of people of color from the city limits, surpassed federally funded clearance campaigns elsewhere. City decision makers focused their energy clearing Section 14 for development instead of addressing the core issue of housing for those displaced.

<sup>5</sup> Subject someone to hostility and ill-treatment, especially because of their race or political or religious beliefs.

<sup>6</sup> Desert Sun, November 23, 1968, *The Section 14 Story – X Indian Land Cleared, Empty*. Under Frank Bogert's leadership, "In 1964, the city of Palm Springs approached the conservators (appointed by Judge Hilton McCabe) with a plan to raze Section 14. The city proposed that the Indians -- through their conservators -- terminate the leases or rentals of the land. The city would then clear the land, using city funds.

<sup>7</sup> Ryan M. Kray, *The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs*, p. 85.

<sup>8</sup> When he was mayor, it was widely reported that Frank Bogert said, "I was scared to death that someone from Life magazine was going to come out and see the poverty, the cardboard houses, and do a story about the poor people and horrible conditions in Palm Springs just half a mile from the Desert Inn, our high-class property."

## Draft - Human Rights Commission Proposed Resolution - 4/28/21

proposed that the Indians -- through their conservators -- terminate the leases or rentals of the land. The city would then clear the land, using city funds;<sup>9</sup> and

WHEREAS, A monument by Raymundo Kobo honoring Frank Bogert currently stands in front of Palm Springs City Hall, on city-owned land; and

WHEREAS, The monument was paid for and erected by private funds and ownership of the monument has passed to the City; and

WHEREAS, We acknowledge that members of the local Black community opposed the statue at the time it was installed and their voice was not heard by those in power. Many working-class, Black, Indigenous, and People of Color residents of the City of Palm Springs have issued a clear call to move this monument as expeditiously as possible due to the harm it poses as a symbol of the dehumanization and devaluation of their lives;<sup>10</sup> and

WHEREAS, The City of Palm Springs recognizes that the legacy of Frank Bogert's mayoral leadership<sup>11</sup> and direct involvement with the horrific razing of Section 14, institutional segregation,<sup>12</sup> and residual systemic racism directly harm public safety and public health;<sup>13</sup> and

WHEREAS, Toward the end of 1965 and his tenure in 1966, the city demolished about 200<sup>14</sup> dwellings in a blighted part of town owned by members of the Agua Caliente Band of Cahuilla Indians. Bogert's strong advocacy for the Section 14 redevelopment effort, which displaced many working-class, Black, Indigenous, and people of color families, provoked an investigation by the state attorney general's office. The probe resulted in a blistering report that said the city's actions were a "classic study in civic disregard for the rights and feelings of minority citizens;"<sup>15</sup> and

WHEREAS, The Department of Justice, Los Angeles Attorney General, on May 31, 1968, charged, "There is evidence of unusual cooperation between developers, the Indian

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<sup>9</sup> Desert Sun, November 23, 1968, The Section 14 Story – X Indian Land Cleared, Empty.

<sup>10</sup> Desert Sun, June 24, 2020, Petition calls for removal of Frank Bogert statue outside Palm Springs City Hall, Colin Atagi.

<sup>11</sup> Desert Sun, May 26, 2017, From a cattle ranch to mayor, Frank Bogert boosted Palm Springs, Renee Brown. Brown is a curator and historian at the Palm Springs Historical Society.

<sup>12</sup> City of Palm Springs Human Rights Commission, March 8, 2021, City of Palm Springs Apology For its Role in the Destruction of Section 14; Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy. Blacks and whites remained separate, living in distinct neighborhoods and Rev. Carl McPeters recalls Black and Latino Americans had to sit in the balcony at the Plaza Theatre; Structural Racism By Keith Lawrence and Terry Keleher (2005); encyclopedia.com; Segregation perpetuated by institutions is an institutionalized form of social distance expressed in physical separation based on discriminatory treatment, unfair policies and inequitable opportunities and impacts, based on race. This normalization and legitimization routinely advantages whites while producing cumulative and chronic adverse outcomes for people of color.

<sup>13</sup> City of Palm Springs, August 6, 2020, Resolution No, 24792. City Council declares systemic racism is a human rights and public health crisis.

<sup>14</sup> The Desert Sun, March 24, 2009, He fits town, town fits him, Bruce Fessier.

<sup>15</sup> Los Angeles Times, March 26, 2009, Longtime Palm Springs mayor helped glamorize the desert town.

conservators, and the City of Palm Springs, in the demolition of Section 14.” The report concluded with the declaration, that when homes were destroyed, residents of Section 14 were victims of a city-engineered holocaust;<sup>16</sup> and

WHEREAS, Defending the city’s actions, Bogert said, “They were poor Blacks.” He added, “They began to come from Texas or wherever and settled in the (Section 14) Indian land, where they could live rent-free. Some of the hotels in the center of town thought this was a bad image for the center of Palm Springs”;<sup>17</sup> and

WHEREAS, While he was leading the Section 14 demolition, profiting as a conservator, and championing development in Palm Springs, Frank Bogert incorporated Cal-A-Nev<sup>18</sup> as a California corporation for real estate development in Arizona, California, and Nevada. There is an appearance of a conflict of interest when as mayor, he crafted a multi-million dollar real estate transaction with another tribe.<sup>19</sup> On November 10, 1962, as president of Cal-A-Nev, he signed a \$21 million resort development, 75-year lease for 13,000 acres of Mojave Indian land on the Colorado River;<sup>20</sup> and

WHEREAS, After the Equalization Act and The Indian Leasing Act became law in 1959 and allowed 99-year leases in Palm Springs, city and tribal leaders then canceled the month-to-month leases of many of the residents, including hundreds of Blacks and Latinos, and condemned their homes. About 200 structures were demolished and burned.<sup>21</sup> With no city plan for relocation, the displaced residents were forced to disperse to the north part of town, Veteran’s Tract on the eastern edge of the city, Banning, Beaumont, West Garnet, San Bernardino, Riverside, and other cities. The 1968 investigation by the state attorney general’s office said city crews acted without observing proper eviction procedures;<sup>22, 23, 24</sup> and

WHEREAS, While Frank Bogert was mayor of Palm Springs, he improperly benefited by serving as a conservator for Tribal Member owned tribal land and was found to have overcharged and

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<sup>16</sup> Loren Miller, Jr., Palm Springs Section 14 Demolition, report by California Department of Justice, Office of the Attorney General, May 31, 1968.

<sup>17</sup> Los Angeles Times, March 26, 2009, Longtime Palm Springs mayor helped glamorize the desert town.

<sup>18</sup> California Secretary of State registry of corporations. File date October 25, 1962.

<sup>19</sup> Desert Sun, October 14, 1991, Agua Calientes fight city and developers for control of land. Frank Bogert is quoted as saying, “I was one of the ones who went to Washington in 1963 to get 99-year leases approved.” One must note, 99-year leases were approved for Palm Springs four years prior in 1959. It would seem the lobbying trip in 1963 may have influenced the \$21 million Mojave Indian development lease. The lease was signed with a promise by Congressman Harry R. Sheppard that a 99-year leasing right bill would be passed for them by February 1963.

<sup>20</sup> The Needles Desert Star (Needles, California), Thu, Nov 15, 1962, Mohaves Sign Land Lease.

<sup>21</sup> The Salt Lake Tribune, January 26, 2001, Shabby Neighborhood Was Born After Downtown Roust

<sup>22</sup> The Desert Sun, March 24, 2009, He fits town, town fits him.

<sup>23</sup> Interview with Eugene Ramon Prieto, Renee Brown, November 13, 2012, as cited in City of Palm Springs Citywide Historic Context Statement & Survey Findings, Human Resources Group.

<sup>24</sup> Pacific Historical Review, Vol. 73, No. 1, University of California Press, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, Ryan M. Kray, p. 85.

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illegally charged the allottee for services.<sup>25</sup> The United States Secretary of Interior investigation, May 28, 1968, found that during his Mayoral term, Frank Bogert was found guilty of fee-splitting between a broker and a conservator. This as well as other similar instances of fee splitting by or with fiduciaries is improper under California law;<sup>26</sup> and

WHEREAS, The Frank Bogert Monument which stands in front of City Hall is a hurtful symbol of systemic racism<sup>27</sup> and the significance of being the only monument at City Hall makes this symbolism even more hurtful, the current Palm Springs City Council has declared systemic racism a public health crisis,<sup>28</sup> and the city has authority over public property to relocate the Frank Bogert Monument;<sup>29</sup> and

WHEREAS, The City of Palm Springs is committed to promoting racial equity and justice, and desire to advance social equity, diversity, inclusion, and fairness and to work to address and undo systemic racism and its continuing impacts;<sup>30</sup> and

WHEREAS, With an understanding that It takes many good deeds to build a good reputation, and only one bad one to lose it.<sup>31</sup> Actions of racial bias, segregation and terror brought on a community.<sup>32</sup> The City of Palm Springs Human Rights Commission desires to move the Frank Bogert Monument from in front of City Hall.

NOW, THEREFORE, Be it resolved we, the undersigned members of the Palm Springs City Human Rights Commission recommend the Palm Springs City Council order the immediate removal of the Frank Bogert Monument from the front of Palm Springs City Hall. Said removal is to be completed within 90 days from the date of full adoption of this resolution.

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<sup>25</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 65-66, Exhibit 19a, Frank Bogert.

<sup>26</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 69-70, Exhibit 19.e. Frank Bogert.

<sup>27</sup> Palm Springs City Council Meeting, Listening Session, July 18, 2020, 11:00 A.M., Janel Hunt's comments to city council. Unofficial Transcript.

<sup>28</sup> City of Palm Springs, August 6, 2020, Resolution No. 24792. City Council declares systemic racism is a human rights and public health crisis.

<sup>29</sup> Palm Springs City Council Meeting, Listening Session July 18, 2020, 11:00 A.M., Unofficial Transcript.

<sup>30</sup> Video of Palm Springs City Councilmember Comments, "Jun 11, 2020 City Council Regular Meeting." palmspringsca.gov, uploaded by City of *Palm Springs, CA*, 11 June 2020, palmspringsca.new.swagit.com/videos/63230; Palm Springs City Council. (2020). Councilmember Comments [Unofficial Audiovisual transcript].

<sup>31</sup> Quote from Benjamin Franklin

<sup>32</sup> California Department of Justice, Office of the Attorney General, May 31, 1968, Palm Springs Section 14 Demolition, Loren Miller, Jr. Report findings charge that homes belonging to minority residents of Section 14 "were destroyed by a city-engineered holocaust.



## Attachment H

### Human Rights Commission Palm Springs

Regular Meeting April 12, 2021

UNOFFICIAL AUDIO TRANSCRIPT

CHAIR DEHARTE

JENNY FOAT, JENNY YOU'VE GOT THREE MINUTES JENNY FOR PUBLIC COMMENTS IS IS MUTED OKAY CAN DO I DO THAT NOW YES PERFECT OKAY SO AND THEN

JENNY FOAT

FIRST OF ALL THANK THE HUMAN RIGHTS COMMISSION FOR TAKING ON THE IMPORTANT ISSUE OF RACISM IN OUR CITY UH HISTORY AND RECOGNIZING THAT OUR PAST IS NOT ALL GLAMOUR AND HOLLYWOOD STORIES SO SINCE MOVING TO PALM SPRINGS IN THE 90S I HAD ALWAYS ADMIRERED THE INCREDIBLE MID-CENTURY ARCHITECTURE OF OUR BEAUTIFUL CITY HALL AS A CITY COUNCIL MEMBER I WOULD WONDER EVERY TIME I WAS AT CITY HALL WHY THERE WAS A STATUE OF A COWBOY MARRING THE FRONT VIEW OF THIS ICONIC BUILDING I READ ABOUT THE HISTORY OF THE PERIOD THAT MAYOR FRANK BOGART LED OUR CITY AND I WAS HORRIFIED YES OUR CITY GREW FROM THE PLAYGROUND OF THE STARS DURING HIS TENURE BUT THE HORRORS THAT WERE PERPETRATED ON THE MOSTLY MINORITY WORKING POOR OF OUR CITY TO GET US THERE WERE UNFAVORABLE UNDER BOGART'S LEADERSHIP HUNDREDS OF FAMILIES LOST EVERYTHING AS HE AND THE CITY COUNCILS OVERSAW THE BURNING OF THEIR HOMES AND THEIR POSSESSIONS TO QUOTE CLEAR OUT THE SQUALOR WHICH WAS HIS TERM FOR THE JUSTIFYING THE BURNING OF SECTION 14. COMPENSATION HELP WITH RELOCATION OR ANY OTHER MINOR ASSISTANCE MUCH LESS AN APOLOGY WAS NEVER PROVIDED TO THE FAMILIES AS THEY WATCHED THEIR HOMES AND PERSONAL BELONGINGS GO UP IN FLAMES AS A CITY COUNCIL MEMBER I HAD THE OPPORTUNITY TO REQUEST THAT THE STATUTE REMOVED THAT REQUEST WAS SENT TO THE PUBLIC ART COMMISSION WHERE IT DIED BECAUSE OF WHAT SEEMS TO BE FINALLY AN AWARENESS OF THE RACISM THAT HAS EXISTED PEOPLE ARE LOOKING AT HISTORY IN A DIFFERENT LIGHT IT IS ALSO WELL DOCUMENTED THAT THE BACK OF BURNING SECTION 14 WAS SO HORRENDOUS THAT IT TRIGGERED AN ATTORNEY GENERAL REPORT AND A FEDERAL INVESTIGATION BOTH OF THOSE INVESTIGATION CONCLUDED THAT AMONG OTHER THINGS IT WAS AN EGREGIOUS ACT OF RACISM IT'S TIME TO REMOVE THE SYMBOL OF HATE FROM IN FRONT OF THE PEOPLE'S BUILDING IT WILL NOT MAKE UP FOR ALL THE PAIN AND HARM THAT WAS CAUSED TO MANY OF THE FAMILIES THAT STILL LIVE IN PALM SPRINGS NOR WILL IT RAISE THE RACISM THAT EXTENDED THEN AND STILL PERMEATES OUR PRESENT BUT WHAT IT WILL ACKNOWLEDGE IS THAT WE AS A CITY RECOGNIZE THE RACISM AND WE RECOGNIZE THE PAIN AND ARE WILLING TO ACT UPON IT BOCA WAS NOT THE ONLY ONE RESPONSIBLE FOR THE HORRENDOUS ACTS OF THAT TIME BUT HE WAS IN CHARGE AND IS THE ONLY ONE WITH A STATUE IN FRONT OF CITY

HALL THE CITY CAN NEVER GIVE BACK WHAT WAS TAKEN FROM THE RESIDENTS OF SECTION 14 DON'T COMPENSATE THEM FOR ALL THAT THEY HAVE LOST WE MOST IMPORTANTLY CAN NEVER GIVE BACK THEIR DIGNITY THEIR HOMES OR THEIR POSSESSIONS BUT BY ACKNOWLEDGING THESE WRONGS WE IN SOME SMALL WAY PROTECT THE FUTURE FROM THESE ATROCITIES FROM EVER BEING PERPETRATED AGAIN SO I I REALLY THINK THAT THE THE RESOLUTION YOU'RE ABOUT TO DISCUSS IS WELL WRITTEN AND INCLUDES MANY OF THE PARTS OF HISTORY THAT ARE COVERED BY THIS PART OF OUR TERRIBLE TIME THANK YOU

CHAIR DEHARTE

THANK YOU JENNY AND JANELLE HAS HER HAND UP AND PUT IN CHAT THAT SHE WOULD LIKE TO SPEAK

JANELLE HUNT

MR CHAIR IF WE COULD ALSO ASK EVERYONE TO PLEASE MUTE YOURSELVES WE'RE GETTING FEEDBACK HERE AS OUR SPEAKERS ARE MAKING THEIR COMMENTS AND UH SUSAN SMITH IS ALSO IN THE QUEUE THANK YOU JANELLE YOU'RE ON THERE YOU GO OKAY THANK YOU HI MY NAME IS JANELLE HYDE UM I JUST WANTED TO GIVE YOU GUYS A LITTLE BIT OF BACKGROUND FOR THOSE OF YOU WHO ARE JOINING US HERE THIS EVENING AND THANK YOU FOR GIVING US AN OPPORTUNITY TO SPEAK HOWEVER YOU KNOW MY FAMILY THERE'S A LOT OF FAMILIES WITHIN THE DESERT HIGHLANDER GATEWAY STATES AREA WHO CAME FROM TEXAS AND YES THEY CAME FROM TEXAS UM AND MIGRATED AND THEY MOVED TO SECTION 14 ON SECTION 14 A LOT OF THEIR HOMES OR PERSONAL PROPERTIES OR BELONGINGS UM WERE RIPPED AWAY WITH SOME WITH NO PRIOR KNOWLEDGE YOU KNOW TO COME HOME I WANT YOU TO THINK ABOUT IF YOU WERE TO COME HOME ONE DAY AND NOT SEE YOUR HOUSE STANDING HERE WHAT WOULD YOU DO WHAT WOULD YOU DO YOU'RE GOING TO BE ANGRY YOU'RE GOING TO BE SAD YOU'RE GOING TO BE HURT AND NOT NOT TO MENTION PEOPLE HAD KIDS KIDS THAT WERE AFFECTED BY IT AND THEN WITHIN THE ATTORNEY AGENDA REPORT ONCE THEY INVOLVED FRANK ONCE THEY INVOLVED ATTORNEY GENERAL ATTORNEY GENERAL IT WAS CITED THAT BOGART SAID THEY WERE POOR BLACKS HE ADDED THAT THEY COME FROM TEXAS OR WHEREVER AND THEY SETTLED IN SECTION 14 INDIAN LAND WHERE THEY COULD LIVE RENT FREE SOME OF THE HOTELS IN THE CENTER OF THE TOWN THOUGHT IT WAS A BAD IMAGE FOR THE CENTER FOR THE CENTER OF PALM SPRINGS WITHOUT ANY REGARD HOUSES WERE JUST DEMOLISHED PEOPLE HAD TO UPROOT AND GO WHEREVER THEY COULD SOME WERE ABLE TO MIKE TO GO TO CROSLY CROSSY TRACKS SOME WERE ABLE TO UM GO TO INDIA MY GRANNY WAS ONE OF THE PEOPLE THAT WAS ABLE TO BUY A HOUSE DURING THAT PROCESS I MOVED TO THE OLD SIDE OF THE DESERT WHERE THE OPPOSITE SIDE OF THE DESERT HIGHLIGHT THE STATES AREA BUT HOWEVER HOW CAN THE CITY IF YOU SAY YOU ARE HERE FOR ALL PEOPLE ALL PEOPLE THAT INCLUDES MY ANCESTORS MY FAMILY MEMBERS THAT WERE UPROOTED FROM SECTION 14. THAT'S A WHOLE NEIGHBORHOOD OUT HERE THAT YOU'RE SAYING BASICALLY YOU'RE SAYING YOU

KNOW WHAT WE HAVE NO REGARD FOR WHATEVER HAPPENED TO YOUR FAMILY BY LETTING THAT STATUTE STAY THERE MOVE IT SOMEPLACE ELSE BUT IF THAT IS THAT IS A CITY BUILDING AND YOU'RE TELLING US THAT THAT IS REPRESENTING THAT IS A REPRESENTATION OF ALL PEOPLE OF ALL PEOPLE FEELING LIKE THEY'RE WELCOME NO IT'S THAT'S ALL I GOT TO SAY

CHAIR DEHARTE

THANK YOU JANELLE APPRECIATE THAT AND NEXT WE'VE GOT

SUSAN SMITH

WITH THE HAND UP HELLO CITIZENS UM I COME TO PRESENT A VIEW FOR OR IN FAVOR OF FRANK BOGART HIS FAMILY TRIBAL MEMBERS WHO OPPOSE THIS COUNCIL CULTURE MOVEMENT IT'S OUR MAYOR AND CITY COUNCIL OR FORMER COUNCIL WHO SPIN THE NARRATIVE ONCE AGAIN WE ALL KNOW THAT SEVERAL HUNDRED WHITES LEASED ON SECTION 14 WITH SUBSTANTIALLY FEWER UH SQUATTERS OF COLOR THIS IS NOT A HUMAN'S RIGHT SITUATION THE TRIBE WAS BENEVOLENT TO ALLOW ESSENTIALLY SQUATTERS TO LIVE AND WORK OUT OF SECTION 14. FRANK BOGART REPRESENTED ONE INDIAN PETE SIVA FOR A VERY SHORT PERIOD OF TIME UNTIL PETE WAS OF AGE AND STOOD ON HIS OWN AS HIS OWN CONSERVATOR HIS WIDOW BERNADINE SIVA HAS SPOKEN TO THIS FACT AND SHE IS ABSOLUTELY AGAINST COUNCIL CULTURE WHERE THE CITY LEADS WRONGFUL CONDUCT TO TAKE THIS BOGART MEMORIAL AWAY IT'S TIME TO STOP THIS ABSURDITY OUR CITY LEADS HAVE DUTY TO FOCUS ON MANY OTHER SITUATIONS FOR EXAMPLE UNDER THEIR EXAMPLE OF THIS UH ABSURDITY IS HUMAN RIGHTS ISSUE WHY KEEP ALLOWING HOMELESS TO ROGUE DOWNTOWN DO DRUGS THERE OR IN OUR PARKS WHY ALLOW ABANDONED BUILDING PROJECTS WHY ALLOW PAROLEES RELEASED IN OUR DOWNTOWN AREAS WHO END UP NIGHT CRAWLING TO STEAL TRESPASS BREAK INTO CARS WHY NOT SEE TO HIRING MORE POLICE OFFICERS THAT WE NEED FOCUS ON ISSUES NEEDED SITUATIONS TO PROTECT HEALTH AND SAFETY OF CITIZENRY NOT POLITICAL RHETORIC BASED ON A FEW ABSURD SQUEAKING WHEEL COUNCIL CULTURISTS AGAIN THIS THIS NEEDS TO STOP IT'S A IT'S A FRANK BOGER WAS A PIONEER OF PALM SPRINGS HE WAS HERE IN THE STAGECOACH ERA UM GREETING AND WELCOMING THE KAUFMAN FAMILY AND ALL OF THE EARLY PIONEERS HE WAS HELPFUL TO THE TRIBE AND HE WAS HELPFUL TO ALL CITIZENS OF EVERY COLOR BLACK WHITE YELLOW AND RED I MEAN AGAIN IT'S ABSURD YOU'RE TAKING AWAY OUR CULTURE OF PALM SPRINGS WE NEED NOT CANCEL OUR PIONEERS WE NEED TO RESPECT THEM AND TO ALLOW THEM TO REMAIN AND UH TO ME IT'S JUST A PLOT FOR OUR CURRENT MAYOR TO TAKE DOWN HIS STATUE TO PUT UP HER OWN AS AS SOME SORT OF A LANDMARK UH CULTURIST WHO IS LGBTQ THE FIRST WOMAN MAYOR OF PALM SPRINGS IT'S JUST IT'S GOTTEN SO ABSURD AND IT'S TIME TO JUST PUT THIS TO REST AND REALLY FOCUS ON IMPROVING OUR CITY AND GETTING THINGS ACCOMPLISHED THAT NEED TO BE ADDRESSED AND I APPRECIATE YOUR JUST FILING THIS MATTER AND LETTING IT ALONE THANK YOU

CHAIR DEHARTE

THANK YOU SUSAN SMITH WE APPRECIATE YOUR COMMENTS AND I SEE A HAND UP WITH JODY DIAZ

JODY DIAZ

HI GOOD EVENING UH GOOD EVENING HUMAN RIGHTS COMMISSION THANK YOU FOR UH HAVING THIS FORUM FOR US TO SPEAK ON UH MY NAME IS JODY DIAZ I AM A THIRD ALMOST 30-YEAR RESIDENT OF PALM SPRINGS AND SINCE COMING HERE AND BEING INVOLVED IN NUMEROUS COMMUNITY ACTIVITIES AND LEARNING THE HISTORY OF PALM SPRINGS FROM BOTH SIDES I'M HERE TO SPEAK ON THE SAME TOPIC THAT'S BEEN SPOKEN ON I FEEL THAT UM JUST AS OTHER PEOPLE HAVE STATED WHEN I FIRST CAME HERE TO PALM SPRINGS I WONDERED WHO IS THIS COWBOY IN FRONT OF CITY HALL LIKE WHAT IS THIS ABOUT AND NOW HAVING SPENT ALL OF THIS TIME HERE AND LIKE I SAID BEING HIGHLY INVOLVED IN THE COMMUNITY AND COMMUNITY ACTIVITIES COME TO FIND OUT THE HISTORY AND IT'S NOT ABSURD IT'S REAL HISTORY IT'S IN THE SMITHSONIAN SECTION 14 IN WHAT WAS DONE TO FAMILIES HERE IN PALM SPRINGS AND I FEEL THAT TO APOLOGIZE TO CERTAIN GROUPS OF PEOPLE IS GREAT BUT THAT'S NOT PUTTING YOUR MONEY WHERE YOUR MOUTH IS APOLOGIES ARE JUST APOLOGIES I FEEL THAT THE REMOVAL OF THAT STATUE WOULD SHOW AND EXPRESS TO ALL OF THE COMMUNITIES AND ESPECIALLY OUR MINORITY COMMUNITIES THAT WE WILL NOT TOLERATE RACISM AS AS A CITY OF ANY KIND UH SEXISM RACISM NONE OF IT SHOULD BE TOLERATED HERE IN PALM SPRINGS AND SO I JUST WANTED TO REALLY URGE URGE THE COMMISSION TO VOTE IN FAVOR OF REMOVAL YOU CAN HONOR HIM IN OTHER WAYS BUT I DON'T FEEL THAT YOU KNOW I FEEL THAT TAKING DOWN THAT STATUE WOULD WOULD REALLY UH SET A PRECEDENCE AND AND EXPRESS TO THE CITY AND THE COMMUNITY AT LARGE WHAT WE STAND FOR HERE IN PALM SPRINGS THANK YOU THANK YOU JODY DIAZ DIAZ

CHAIR DEHARTE

I SAW SUE LEFERVE HAVE A HAND UP TOO OR DO YOU NO LONGER HAVE YOUR HAND UP OKAY WE WILL GO TO

SUE LEFERVE

I'M SORRY I'M SORRY I HAD TO MUTE MYSELF NOW THAT WASN'T A HAND THAT WAS JUST A UH THAT WAS A REACTION TO SOMETHING THAT I'VE HEARD UH BEING IN PALM SPRINGS AS LONG AS I HAVE NOT THE 90S NOT THE 80S NOT THE 70S BUT THE 60S UM AND I I WOULD ENCOURAGE ALL OF YOU TO LOOK AT THE HISTORY LOOK AT THE HISTORY AND UH THANK YOU

THANK YOU SUSAN FOR YOUR VERY INTUITIVE AND HEARTFELT UH CARING EXPOSE TO THIS CITY COUNCIL I KNOW YOU'LL END UP DOING THE RIGHT THING THANK YOU

CHAIR DEHARTE  
THANK YOU

TOM BEFORE YOU I SEE LILY HANNER HAS A HAND UP THEN WE'LL GO TO TOM UM

LILY HANNER

HI SO I DON'T BECAUSE I'M LIKE OKAY SO I'M A FRESHMAN STUDENT UH IN HIGH SCHOOL SO I DON'T KNOW TOO MUCH OF EXTENSIVE RESEARCH RESEARCH UM ON THE HISTORY OF THE CITY EVEN THOUGH I'VE LIVED HERE MY WHOLE LIFE BUT I DID DO A LOT OF RESEARCH ON SEX SECTION 14 WHEN I WAS IN ABOUT THE SIXTH GRADE UM AND OBVIOUSLY IT IS A TERRIBLE THING THAT HAPPENED TO THOSE PEOPLE THAT LIVED THERE AND UM I I AM A KIND OF PERSON THAT LIKES TO STAY IN THE MIDDLE OF SITUATIONS OR IN THE MIDDLE OF CONFLICTS NOT REALLY ON SIDES AND I'M SURE THERE ARE MANY PEOPLE IN THIS CALL AND IN THE CITY THAT THINK THAT THAT STATUTE NEEDS TO BE REMOVED UM AND OBVIOUSLY THERE ARE GOING TO BE A LOT OF PEOPLE IN THE CITY WHO ALSO THINK THAT IT SHOULD STAY THERE AND THAT UM AS SUSAN SAID THE CANCEL CULTURE OF IT SHOULDN'T BE WORKED UPON BUT UM PERSONALLY I FEEL THAT UM I JUST WANTED TO PUT THE IDEA OF MAYBE A SORT OF COMPROMISE OF INSTEAD OF EXACTLY COMPLETELY GETTING RID OF THE STATUE MAYBE MOVING IT TO A MORE UM IDEAL SPOT IN THE CITY MAYBE SOMEWHERE THAT WOULD MAKE MORE SENSE FOR IT TO BE IN WHETHER IT PERTAINS TO THE HISTORY OF THAT MAN BETTER UM BECAUSE SINCE THERE IS OBVIOUSLY DARK HISTORY BEHIND THAT PERSON BEHIND HIM I FEEL IT WOULD BE A LOT EASIER TO MAYBE NOT PUT SO MUCH PUBLIC LIGHT ON IT AS IN FRONT OF THE CITY HALL BUT MORE SO JUST MOVE IT TO A PLACE THAT THAT WAY HE COULD STILL BE RECOGNIZED AND THE HISTORY THAT HE BROUGHT TO OUR CITY IS STILL UNDERSTOOD AND BROUGHT TO THE ATTENTION OF OUR MEMBER OF OTHER LIKE CITIZENS BUT NOT NECESSARILY COMPLETELY HIDDEN TO THE POINT WHERE UM NOBODY LEARNS IT AT ALL BUT THAT THAT'S I JUST WANTED TO FILL IT IN  
THANK YOU

CHAIR DEHARTE

THANK YOU LILLY HANNER AND UH TOM I DON'T HAVE A LAST NAME FOR YOU BUT I SAW YOUR HAND

TOM KILEY

GOOD EVENING CONGRATULATIONS MY NAME IS TOM KILEY AND UM I WAS BORN IN THE EL MIRADOR HOTEL AND I'VE LIVED MY WHOLE LIFE HERE MY FAMILY'S BEEN HERE SINCE 1911. AND UM IT'S INTERESTING TO HEAR FOLKS TALK ABOUT THEIR LONG HISTORY OF PALM SPRINGS HAVING BEEN HERE 20 OR 15 YEARS UM I BRING TO YOU TONIGHT A PERSPECTIVE OF SOMEONE WHO LIVED THROUGH THAT ERA WHO KNEW THAT SECTION VERY WELL WHO WAS AT THAT SECTION WALKED THOSE GROUNDS AT LEAST ONCE A WEEK ALL THROUGH MY GROWING UP YEARS UM IT'S IT'S A LITTLE BIT DISTURBING TO US THAT UM THOSE OF US WHO HAVE A GOOD

KNOWLEDGE OF FIRST-HAND KNOWLEDGE OF WHAT ACTUALLY HAPPENED HAVE SORT OF BEEN DISMISSED IN THIS WHOLE PROCESS UM TRACY CONRAD WHO IS THE PRESIDENT OF THE PALM SPRINGS HISTORICAL SOCIETY WROTE A VERY GOOD LETTER TO CITY COUNCIL UM SEVERAL MONTHS AGO AND URGING THE COUNCIL TO CAREFULLY LOOK AT THE TRUE HISTORY OF THAT AREA OFFERED THE RESOURCES OF THE OF THE HISTORICAL SOCIETY NOT ONLY THE ARCHIVES BUT OF THOSE MEMBERS OF THE SOCIETY WHICH REPRESENT NATIVE AMERICANS BLACKS HISPANICS AND THOSE OF OF ALL RACISM GENDERS THAT HAVE BEEN IN THIS CITY MOST OF WHOM HAVE BEEN HERE ALL THEIR LIVES WE NEVER HEARD A RESPONSE TO THAT LETTER AND HERE YOU ARE TONIGHT CONTEMPLATING AN ACTION WITHOUT HEARING BOTH SIDES OF THE STORY THIS IS A VERY VERY IMPORTANT DECISION THAT YOU'RE ABOUT TO EMBARK ON AND I DON'T KNOW HOW ONE MAKES A DECISION LIKE THAT HAVING NOT HEARD ALL THE FACTS HAVING DONE THIS IN A VACUUM I WOULD ENCOURAGE YOU TO REACH OUT TO THE COMMUNITY PARTICULARLY THOSE OF US WHO HAVE BEEN HERE AND WHO CAN SHARE REAL LIFE STORIES OF THE RESERVATION AND HAVE LIFE IN PALM SPRINGS TO GIVE YOU THE THE ACTUAL OTHER SIDE OF THE STORY IF YOU WISH THAT WASN'T POSSIBLE WHEN THE QUOTE-UNQUOTE SMITHSONIAN EXHIBIT WAS DONE IT WAS A ONE-SIDED EXHIBIT THAT LIKE THIS DECISION WAS MADE IN A VACUUM WITHOUT THE INPUT OF THOSE PEOPLE THAT WERE ACTUALLY THERE IT WAS BASED PRIMARILY ON A 15-MINUTE VISIT BY THE ATTORNEY GENERAL IN THE STATE OF CALIFORNIA 15 MINUTES SO I WOULD URGE YOU IF YOU REALLY WANT TO DO YOUR JOB AND YOU WANT TO SERVE YOUR COMMUNITY WELL UM THERE'S NO RUSH ON THIS TAKE YOUR TIME ENGAGE THE THE PALM SPRINGS HISTORICAL SOCIETY UM ACCEPT THEIR OFFER TO SIT WITH THEM AND TO SEE THEIR ARCHIVES AND TO REVIEW THE ACTUAL DATA OF WHAT HAPPENED WHO WAS THERE UH WHAT HAPPENED THE NONSENSE THAT PEOPLE LEFT FOR THE DAY AND CAME HOME TO THEIR HOUSE BURNED DOWN AND THEIR AND THEIR BELONGINGS GONE NEEDS TO STOP YOU NEED TO KNOW WHAT THE REAL FACTS ARE YOU REALLY NEED TO KNOW WHAT THAT WHOLE PROCESS WAS INCLUDING SOME RESIDENTS WHO HAD THREE YEARS TO RELOCATE AND CHOSE NOT TO SO AGAIN I WOULD ASK YOU UM YOU ALL HAVE A PERCEPTION THAT YOU THINK YOU KNOW THE HISTORY YOU THINK YOU KNOW WHAT THE SITUATION IS BUT I WILL TELL YOU THAT THERE'S A COMPLETELY DIFFERENT SIDE THAT NEEDS TO BE ALSO HEARD AND THAT YOU NEED AND HAVE AVAILABLE TO YOU THE RESOURCES OF THINGS LIKE THE HISTORICAL SOCIETY AND PIONEER MEMBERS OF OF YOUR COMMUNITY WHO WOULD LOVE TO TELL YOU THEIR PERSPECTIVE AND HOPEFULLY GET YOU TO UNDERSTAND WHAT THE TRUTH OF THIS WHOLE SITUATION IS THANK YOU FOR YOUR TIME

CHAIR DEHARTE  
THANK YOU TOM KILEY  
NEXT WE'VE GOT DAVID WEINER

DAVID WEINER

HEY UM SORRY ABOUT THAT HELLO UH COMMISSIONERS AND EVERYBODY IN THIS ROOM SOME CITY COUNCIL PEOPLE THAT I KNOW HAS CITY COUNCIL PEOPLE YOU GUYS I'M SPEAKING EXTRA RAMENOUSLY OFF THE CUFF BECAUSE I JUST IT'S BEEN A CRAZY UH SPRING FOR ME BUT I WANTED TO ADDRESS SOME OF THE COMMENTS THAT HAVE BEEN MADE AND YOU KNOW FOR ALL THE PEOPLE THAT ARE TALKING ABOUT CANCEL CULTURE UM WHAT A GREAT GUY FRANK WAS THINGS LIKE THAT NONE OF US ARE SAYING THAT HE DOESN'T HAVE CERTAIN ASPECTS THAT OF HIS TIME THAT WERE GOOD FOR CERTAIN PARTS OF THIS COMMUNITY BUT WHAT WE ARE SAYING IS WE ALSO HAVE A LOT OF DOCUMENTATION FROM ARTICLES AT THE TIME IN THE DESERT SUN FROM ARTICLES MORE UH YOU KNOW A LITTLE BIT AFTER IN IN THE EARLY TIMES IN USA TODAY FROM THE CALIFORNIA ATTORNEY'S GENERALS REPORTED I DON'T CARE IF THE YOU KNOW REPRESENTATIVE FROM THE AG'S OFFICE SPENT 15 MINUTES HERE OR 15 WEEKS HERE HE STILL HAD A CHANCE TO SIT AND TALK TO PEOPLE AND SEE WHAT HAPPENED UM WE HAVE PEOPLE THAT ARE AFFECTED BY THESE POLICIES IN OUR COMMUNITY UH ONE OF THEM YOU KNOW MS CORA JUST PASSED AWAY UM AND YOU KNOW HER FAMILY IS STILL INVOLVED ACTIVE AND HAD BEEN RELOCATED FROM SECTION 14. WE'RE NOT WE'RE NOT TRYING TO CANCEL OUT THE HISTORY WE'RE JUST YOU KNOW I'M SAYING I THINK THE PEOPLE THAT WORKED ON THIS BEFORE ME BECAUSE I AM NOT THE FIRST PERSON TO WORK ON THIS IDEA A LOT OF PEOPLE PUT IN A LOT OF EFFORT AND TIME AND UM JENNY THANK YOU SO MUCH BECAUSE YOU YOU GOT THIS BALL ROLLING BEFORE I EVEN KNEW ABOUT IT UM WE'RE SAYING FOR SOMEBODY THAT HELPED TO SHAPE POLICIES THAT EVICTED PEOPLE FROM THEIR HOMES OR MIGHT HAVE SUBJECTED THEM TO YOU KNOW BEING FORCED TO THE OUTSKIRTS OF TOWN SHOULD THAT PERSON WHO CAUSED SO MUCH TRAUMA AND SO MUCH GRIEF BE CELEBRATED BY A STATUE WITH THE UTMOST THE HIGHEST PLACE OF RESPECT IN OUR TOWN RIGHT IN FRONT OF CITY HALL YOU KNOW MOVE THE STATUE I THINK IS WHAT WE'RE SAYING AND HAVE A HISTORICAL DISPLAY ABOUT WHAT HAPPENED IN SECTION 14 AND WHY WE AS THE CITIZENS OF PALM SPRINGS ARE REALLY WANTING THAT HISTORY TO GET OUT BOTH AS FAR AS EDUCATING PEOPLE ABOUT WHAT HAPPENED UM TO COUNTER POTENTIAL RACISM AND TO AS OUR OWN WAY APOLOGIZE FOR WHAT HAS HAPPENED BY PEOPLE THAT LIVED IN THIS TOWN BEFORE US WE OWE AN APOLOGY TO THE CITIZENS THAT WERE UPROOTED AND RELOCATED AND I THINK PART OF THAT APOLOGY INCLUDES MOVING THIS STATUE TO A DIFFERENT PART OF TOWN AND I'M SORRY FOR MY PUPPY I'M GONNA GO MUTE RIGHT NOW BECAUSE SHE'S VERY TALKATIVE I THINK SHE HAS HER OWN IDEAS IN FAVOR OF MOVING THE STATUE ALL RIGHT DAVID WEINER THANK YOU VERY MUCH UH I DON'T SEE ANYBODY ELSE FROM THE Q J OH

CHAIR DEHARTE

I SEE A DOUG EVANS WAVING HIS HAND DOUG WE WILL GO TO YOU AFTER YOU UNMUTE WE UH YOU'VE GOT THREE MINUTES THERE YOU GO THANK YOU VERY MUCH I'M DONE NO UH

DOUG EVANS

MY NAME'S DOUG EVANS UH MR CHAIRMAN MEMBERS OF THE COMMISSION UH COUNCIL MEMBER OF CHIEF REYES I HAVE THE THE HONOR AND PRIVILEGE OF WORKING FOR THE CITY OF PALM SPRINGS FOR 26 YEARS I CAME TO THE CITY IN 1979 AS A YOUNG PLANTER RECENT GRADUATE CAL STATE LONG WHEAT LONG BEACH DID NEIGHBORHOOD SURVEYS IN ALL NEIGHBORHOODS OF LONG BEACH I DID MY HOMEWORK WHEN I FIRST GOT HERE BECAUSE OF SOME OF THE THINGS PEOPLE TALKED ABOUT I READ EVERYTHING AVAILABLE AT CITY HALL I READ VIRTUALLY EVERY ARCHIVE NEWSPAPER ARTICLE BECAUSE I AS A YOUNG PERSON THAT HAD VALUES WANTED TO MAKE SURE I WAS IN THE RIGHT TOWN AND I I READ EVERYTHING AND I GOT TO TALK TO PEOPLE I GOT TO TALK TO FRANK POGER I GOT TO TALK TO BIOLA ORTNER WHILE I DON'T HAVE THE HISTORY OF MR TOM KILEY I DID HAVE A PERSPECTIVE OF WHAT WAS GOING ON IN THE COMMUNITY MR BOGART HAS BEEN CALLED A LOT OF THINGS OVER THE PAST SEVERAL YEARS MOST OF THEM ARE NOT TRUE UM HE'S HE'S BEEN CALLED A RACIST UH IN A NUMBER OF DIFFERENT WAYS AND IF YOU LOOK AT HIS LIFE IF YOU LOOK AT WHO HE'S BEEN MARRIED TO HIS FAMILY WHO HIS FRIENDS WERE WHO WAS WHOSE FRIENDS WERE WHEN SECTION 14 WAS BEING DISCUSSED WE ALL THINK THAT SECTION 14 WAS HANDLED BY ONE PERSON AND THAT'S WHAT WE'VE KIND OF HEARD TODAY SECTION 14 OCCURRED OVER A 10-YEAR PERIOD IT HAD MULTIPLE MAYORS MULTIPLE CITY COUNCIL MEMBERS MORE IMPORTANTLY MULTIPLE TRIBAL COUNCIL MEMBERS AND TRIBAL CHAIRMEN THE TRIBE CAME TO THE CITY AND ASKED FOR HELP THAT'S HOW THE LEGACY OF SECTION 14 HAPPENED THEY COULD NOT GET HELP FROM THE FEDERAL GOVERNMENT FROM THE BUREAU OF INDIAN AFFAIRS FROM THE STATE OF CALIFORNIA OR ANY OTHER AGENCY AND THEY ASKED THE CITY TO HELP THEM WITH A CHALLENGE THAT THEY HAD WITH REGARDS TO THE USE OF INDIAN LAND IN SECTION 14. SO WHEN YOU YOU PUT IT IN HISTORICAL CONTEXT ONE HAD HAPPENED OVER A 10-YEAR PERIOD PEOPLE WERE GIVEN NOTICES IT WASN'T A SURPRISE ACTUALLY UH MAYOR BOGART AT THE TIME ASKED FOR STAYS OF DEMOLITION PERMITS SO PEOPLE WOULD HAVE MORE TIME HE WORKED CLOSELY WITH LAWRENCE CROSSLEY WHO WAS A CONSERVATOR OF INDIAN LAND JUST AS FRANK BOGART WAS TO TRY TO COME UP WITH WAYS TO CREATE HOUSING THE CITY DIDN'T HAVE REDEVELOPMENT TOOLS IT DIDN'T HAVE STATE MONIES FOR AFFORDABLE HOUSING BACK THEN THERE WAS NO HELP THE TRIBE COULDN'T GET OUT

MR CHAIR THREE MINUTES HAS ELAPSED UH THANK YOU VERY MUCH I APPRECIATE YOUR TIME I AM DISAPPOINTED THAT THERE'S BEEN REFERENCE TO A RESOLUTION AND THAT'S NOT IN THE AGENDA PACKET THERE'S JUST NEWSPAPER ARTICLES AND SOMETHING ABOUT TOBACCO IN CANNABIS IS ATTACHED TO THE AGENDA I CAN'T GIVE YOU MEANINGFUL COMMENT BECAUSE THAT INFORMATION IS NOT MADE AVAILABLE TO THE PUBLIC I APOLOGIZE FOR THE EXTRA TIME THANK YOU VERY MUCH UH YOU HAVE A DIFFICULT DECISION TO MAKE THANK YOU THANK YOU DOUG EVANS



CHAIR DEHARTE

I DON'T SEE ANY OTHER HANDS UP SO JAY IF YOU DON'T SEE ANY WITH THAT DOES DOES SUSAN SMITH HAVE A COMMENT THE HAND IS UP BUT I'M NOT SURE OF SUSAN SMITH I DO I DO I I MEANT TO SAY THAT UM SUSAN ALREADY SPOKE SUSAN I'M SORRY BUT YOU HAVE ONE OPPORTUNITY TO SPEAK DURING OUR PUBLIC COMMENT

SUSAN EVANS

I DON'T THINK I FULFILLED MY THREE MINUTES HOWEVER SO I'D LIKE I'D LIKE TO JUST SAY ONE THING THAT WHEN MY FAMILY BOUGHT A HOME IN PALM SPRINGS ON VIA MIRALESTRA A BLOCK FROM THE DESERT REGIONAL HOSPITAL I WAS IT IT WAS 1957 I WAS 10 YEARS OLD AND I REMEMBER SECTION 14. I HAD SCHOOLMATES WHO LIVED ON SECTION 14. I HAVE SCHOOLMATES WHO WOULD COME FORWARD AND LIKE TO SEE THE CITY WE CAN HOLD A MEETING AT THE CONVENTION CENTER IN A MONTH OR TWO OUT AND I WILL INVITE EVERYONE WHO ALL THE KIDS ALL THE FAMILIES WHO LIVED ON SECTION 14 THAT I CAN ROUND UP AND LET THEM SPEAK ABOUT WHAT HAPPENED AND DOUG IS CORRECT AND TOM IS CORRECT AND WE HAVE MANY OTHER LONGTIME CITIZENS LIKE MYSELF WHO ARE WITNESS TO WHAT ACTUALLY HAPPENED AND AGAIN I I THIS IS ALL RHETORIC IT'S ALL POLITICAL SPIN AND WE REALLY NEED TO UH GET TO THE BOTTOM OF THIS AND MAYBE CORRECT HISTORY ONCE AND FOR ALL CORRECT UH THE PUBLICATIONS THAT ARE HAVE INCORRECTLY BEEN UM SPUN AND WE NEED TO UH MAKE THIS RIGHT BUT UH REMOVING YOUR TIME IS UP I WOULD APPRECIATE THANK YOU THANK YOU

CHAIR DEHARTE

ANY OTHER FIRST TIME UH FOLKS WHO WOULD LIKE TO MAKE COMMENTS PUBLICLY DURING PUBLIC COMMENTS JAY I DON'T SEE ANY OTHER NEW PEOPLE SO WITH THAT WE WILL CLOSE PUBLIC COMMENTS UH FOR OUR MEETING TODAY AND MOVE ON TO ITEM SIX UM JANELLE IF YOU HAVE LIKE A ONE MINUTE UH COMMENT THAT YOU WOULD LIKE TO MAKE SUSAN SMITH WAS CORRECT SHE DIDN'T USE THE FULL THREE MINUTES WHEN SHE WAS ON THE FIRST TIME SO WE EXTENDED THAT COURTESY AND WOULD DO THE SAME FOR YOU IF YOU'VE GOT A MINUTE UH COMMENT THAT YOU WOULD LIKE TO MAKE QUICKLY

JANELLE HUNT

YOU KNOW PEOPLE TALK ABOUT THAT THIS IS WHAT'S WRITTEN IN BOOKS OR NEWSPAPERS ARTICLES THERE ARE FIRST-HAND ACCOUNTS THAT I LISTENED TO YOU FROM MY GRANNY CLAUDIA CRAWFORD TAUGHT KYLIE I DIDN'T KNOW YOU KNOW HER YOU KNEW HER BECAUSE SHE WORKED FOR ME BUT FIRSHAND ACCOUNTS OF NUMBERS OF FAMILY MEMBERS THAT LIVED ON SECTION 14 IT WAS NOT ANYTHING THAT WAS JUST WRITTEN IT DOWN TO ACCORDING TO ATTORNEY GENERAL REPORT THESE ARE FIRST-HAND ACCOUNTS STORIES MEMORIES THAT WERE SHARED NOT ONE TIME NOT TWO TIMES BUT EVERY OPPORTUNITY WHERE A

COOKIE BAR CAME ABOUT SO I HAVE TONS OF STORIES YES THAT MIGHT BE READY TO SHARE SO THIS I MEAN FOR YOU TO SIT THERE AND SAY THAT FAMILIES YES THIS IS WHAT TOOK PLACE YES AND WE KNOW THAT IT WASN'T JUST FRANKFORT'S DOING BUT WE HAVE A MAN WE HAVE A STATUE OF A MAN THAT WE ARE THAT'S A SYMBOL THAT'S OF WHO CITY OF PALM SPRINGS IS THAT'S NOT RIGHT

CHAIR DEHARTE

THANK YOU JANELLE WE APPRECIATE THE COMMENTS THAT YOU BROUGHT FORWARD WITH THAT PUBLIC COMMENTS ARE CLOSED AND WE MOVE ON TO ITEM SIX

**RESOLUTION OF THE CITY OF PALM SPRINGS HUMAN RIGHTS COMMISSION  
RECOMMENDING THE REMOVAL OF THE FRANK BOGERT MONUMENT FROM THE  
FRONT OF PALM SPRINGS CITY HALL.**

WHEREAS, A monument to Frank Bogert, which was installed on the Palm Springs City Hall lawn, on March 31, 1990, to honor and recognize decades of service to the community,<sup>1</sup> is also widely perceived as an offensive and painful public reminder of a legacy of urban renewal that banished the vast majority of people of color from the city limits, and the present realities of systemic racism<sup>2</sup> born out of his mayoral leadership from 1958-1966;<sup>3</sup> <sup>4</sup>and

WHEREAS, Collaborating with local businessmen and attorneys, Mayor Bogert and Palm Springs civic leaders persecuted<sup>5</sup> their lower-income constituents who resided on the land owned by local Tribal Members.<sup>6</sup> Attempting to dispossess the Indians of their tribal lands, and erase any blighted neighborhoods that might degrade the city's resort image, Palm Springs officials developed and implemented a plan that included having non-Indian conservators appointed by a local judge to manage the Indians land claiming they were unable to manage it for themselves. The successful implementation of this plan resulted in the removal of the city's people of color and restructured the race and class configuration of the city;<sup>7, 8</sup> and

WHEREAS, Under Frank Bogert's leadership, in 1964, the City of Palm Springs approached the conservators appointed by Judge Hilton McCabe with a plan to raze Section 14. The city

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<sup>1</sup> The Wall Street Journal, April 4, 2009, by Stephen Miller, Longtime Mayor Helped Make Palm Springs a Mecca.

<sup>2</sup> Refers to the structures and institutions in society that serve to oppress people of color.

<sup>3</sup> Resolution approved by the Brothers of the Desert November 7, 2020; Loren Miller, Jr., Palm Springs Section 14 Demolition, report by California Department of Justice, Office of the Attorney General, May 31, 1968. Regrettably, no low-cost or affordable housing plan was realized to care for Black, Indigenous, persons of color and other working class families displaced under city directed forced evictions.

<sup>4</sup> Ryan M. Kray, *The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs*. In fashioning this exclusive community, Palm Springs city officials at mid-century implemented a locally funded urban renewal/"Negro removal" campaign that, by effectively banishing the vast majority of people of color from the city limits, surpassed federally funded clearance campaigns elsewhere. City decision makers focused their energy clearing Section 14 for development instead of addressing the core issue of housing for those displaced.

<sup>5</sup> Subject someone to hostility and ill-treatment, especially because of their race or political or religious beliefs.

<sup>6</sup> Desert Sun, November 23, 1968, *The Section 14 Story – X Indian Land Cleared, Empty*. Under Frank Bogert's leadership, "In 1964, the city of Palm Springs approached the conservators (appointed by Judge Hilton McCabe) with a plan to raze Section 14. The city proposed that the Indians -- through their conservators -- terminate the leases or rentals of the land. The city would then clear the land, using city funds.

<sup>7</sup> Ryan M. Kray, *The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs*, p. 85.

<sup>8</sup> When he was mayor, it was widely reported that Frank Bogert said, "I was scared to death that someone from Life magazine was going to come out and see the poverty, the cardboard houses, and do a story about the poor people and horrible conditions in Palm Springs just half a mile from the Desert Inn, our high-class property."

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proposed that the Indians -- through their conservators -- terminate the leases or rentals of the land. The city would then clear the land, using city funds;<sup>9</sup> and

WHEREAS, A monument by Raymundo Kobo honoring Frank Bogert currently stands in front of Palm Springs City Hall, on city-owned land; and

WHEREAS, The monument was paid for and erected by private funds and ownership of the monument has passed to the City; and

WHEREAS, We acknowledge that members of the local Black community opposed the statue at the time it was installed and their voice was not heard by those in power. Many working-class, Black, Indigenous, and People of Color residents of the City of Palm Springs have issued a clear call to move this monument as expeditiously as possible due to the harm it poses as a symbol of the dehumanization and devaluation of their lives;<sup>10</sup> and

WHEREAS, The City of Palm Springs recognizes that the legacy of Frank Bogert's mayoral leadership<sup>11</sup> and direct involvement with the horrific razing of Section 14, institutional segregation,<sup>12</sup> and residual systemic racism directly harm public safety and public health;<sup>13</sup> and

WHEREAS, Toward the end of 1965 and his tenure in 1966, the city demolished about 200<sup>14</sup> dwellings in a blighted part of town owned by members of the Agua Caliente Band of Cahuilla Indians. Bogert's strong advocacy for the Section 14 redevelopment effort, which displaced many working-class, Black, Indigenous, and people of color families, provoked an investigation by the state attorney general's office. The probe resulted in a blistering report that said the city's actions were a "classic study in civic disregard for the rights and feelings of minority citizens;"<sup>15</sup> and

WHEREAS, The Department of Justice, Los Angeles Attorney General, on May 31, 1968, charged, "There is evidence of unusual cooperation between developers, the Indian

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<sup>9</sup> Desert Sun, November 23, 1968, The Section 14 Story – X Indian Land Cleared, Empty.

<sup>10</sup> Desert Sun, June 24, 2020, Petition calls for removal of Frank Bogert statue outside Palm Springs City Hall, Colin Atagi.

<sup>11</sup> Desert Sun, May 26, 2017, From a cattle ranch to mayor, Frank Bogert boosted Palm Springs, Renee Brown. Brown is a curator and historian at the Palm Springs Historical Society.

<sup>12</sup> City of Palm Springs Human Rights Commission, March 8, 2021, City of Palm Springs Apology For its Role in the Destruction of Section 14; Desert Sun, September 28, 2016, Decades of Discrimination: Segregation and Evictions in Mid-Century Palm Springs, Denise Goolsby and Rosalie Murphy. Blacks and whites remained separate, living in distinct neighborhoods and Rev. Carl McPeters recalls Black and Latino Americans had to sit in the balcony at the Plaza Theatre; Structural Racism By Keith Lawrence and Terry Keleher (2005); encyclopedia.com; Segregation perpetuated by institutions is an institutionalized form of social distance expressed in physical separation based on discriminatory treatment, unfair policies and inequitable opportunities and impacts, based on race. This normalization and legitimization routinely advantages whites while producing cumulative and chronic adverse outcomes for people of color.

<sup>13</sup> City of Palm Springs, August 6, 2020, Resolution No, 24792. City Council declares systemic racism is a human rights and public health crisis.

<sup>14</sup> The Desert Sun, March 24, 2009, He fits town, town fits him, Bruce Fessier.

<sup>15</sup> Los Angeles Times, March 26, 2009, Longtime Palm Springs mayor helped glamorize the desert town.

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conservators, and the City of Palm Springs, in the demolition of Section 14.” The report concluded with the declaration, that when homes were destroyed, residents of Section 14 were victims of a city-engineered holocaust;<sup>16</sup> and

WHEREAS, Defending the city’s actions, Bogert said, “They were poor Blacks.” He added, “They began to come from Texas or wherever and settled in the (Section 14) Indian land, where they could live rent-free. Some of the hotels in the center of town thought this was a bad image for the center of Palm Springs”;<sup>17</sup> and

WHEREAS, While he was leading the Section 14 demolition, profiting as a conservator, and championing development in Palm Springs, Frank Bogert incorporated Cal-A-Nev<sup>18</sup> as a California corporation for real estate development in Arizona, California, and Nevada. There is an appearance of a conflict of interest when as mayor, he crafted a multi-million dollar real estate transaction with another tribe.<sup>19</sup> On November 10, 1962, as president of Cal-A-Nev, he signed a \$21 million resort development, 75-year lease for 13,000 acres of Mojave Indian land on the Colorado River;<sup>20</sup> and

WHEREAS, After the Equalization Act and The Indian Leasing Act became law in 1959 and allowed 99-year leases in Palm Springs, city and tribal leaders then canceled the month-to-month leases of many of the residents, including hundreds of Blacks and Latinos, and condemned their homes. About 200 structures were demolished and burned.<sup>21</sup> With no city plan for relocation, the displaced residents were forced to disperse to the north part of town, Veteran’s Tract on the eastern edge of the city, Banning, Beaumont, West Garnet, San Bernardino, Riverside, and other cities. The 1968 investigation by the state attorney general’s office said city crews acted without observing proper eviction procedures;<sup>22, 23, 24</sup> and

WHEREAS, While Frank Bogert was mayor of Palm Springs, he improperly benefited by serving as a conservator for Tribal Member owned tribal land and was found to have overcharged and

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<sup>16</sup> Loren Miller, Jr., Palm Springs Section 14 Demolition, report by California Department of Justice, Office of the Attorney General, May 31, 1968.

<sup>17</sup> Los Angeles Times, March 26, 2009, Longtime Palm Springs mayor helped glamorize the desert town.

<sup>18</sup> California Secretary of State registry of corporations. File date October 25, 1962.

<sup>19</sup> Desert Sun, October 14, 1991, Agua Calientes fight city and developers for control of land. Frank Bogert is quoted as saying, “I was one of the ones who went to Washington in 1963 to get 99-year leases approved.” One must note, 99-year leases were approved for Palm Springs four years prior in 1959. It would seem the lobbying trip in 1963 may have influenced the \$21 million Mojave Indian development lease. The lease was signed with a promise by Congressman Harry R. Sheppard that a 99-year leasing right bill would be passed for them by February 1963.

<sup>20</sup> The Needles Desert Star (Needles, California), Thu, Nov 15, 1962, Mohaves Sign Land Lease.

<sup>21</sup> The Salt Lake Tribune, January 26, 2001, Shabby Neighborhood Was Born After Downtown Roust

<sup>22</sup> The Desert Sun, March 24, 2009, He fits town, town fits him.

<sup>23</sup> Interview with Eugene Ramon Prieto, Renee Brown, November 13, 2012, as cited in City of Palm Springs Citywide Historic Context Statement & Survey Findings, Human Resources Group.

<sup>24</sup> Pacific Historical Review, Vol. 73, No. 1, University of California Press, The Path to Paradise: Expropriation, Exodus, and Exclusion in the Making of Palm Springs, Ryan M. Kray, p. 85.

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illegally charged the allottee for services.<sup>25</sup> The United States Secretary of Interior investigation, May 28, 1968, found that during his Mayoral term, Frank Bogert was found guilty of fee-splitting between a broker and a conservator. This as well as other similar instances of fee splitting by or with fiduciaries is improper under California law;<sup>26</sup> and

WHEREAS, The Frank Bogert Monument which stands in front of City Hall is a hurtful symbol of systemic racism<sup>27</sup> and the significance of being the only monument at City Hall makes this symbolism even more hurtful, the current Palm Springs City Council has declared systemic racism a public health crisis,<sup>28</sup> and the city has authority over public property to relocate the Frank Bogert Monument;<sup>29</sup> and

WHEREAS, The City of Palm Springs is committed to promoting racial equity and justice, and desire to advance social equity, diversity, inclusion, and fairness and to work to address and undo systemic racism and its continuing impacts;<sup>30</sup> and

WHEREAS, With an understanding that It takes many good deeds to build a good reputation, and only one bad one to lose it.<sup>31</sup> Actions of racial bias, segregation and terror brought on a community.<sup>32</sup> The City of Palm Springs Human Rights Commission desires to move the Frank Bogert Monument from in front of City Hall.

NOW, THEREFORE, Be it resolved we, the undersigned members of the Palm Springs City Human Rights Commission recommend the Palm Springs City Council order the immediate removal of the Frank Bogert Monument from the front of Palm Springs City Hall. Said removal is to be completed within 90 days from the date of full adoption of this resolution.

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<sup>25</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 65-66, Exhibit 19a, Frank Bogert.

<sup>26</sup> Hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs House of Representatives, May 31, 1968, pp. 69-70, Exhibit 19.e. Frank Bogert.

<sup>27</sup> Palm Springs City Council Meeting, Listening Session, July 18, 2020, 11:00 A.M., Janel Hunt's comments to city council. Unofficial Transcript.

<sup>28</sup> City of Palm Springs, August 6, 2020, Resolution No. 24792. City Council declares systemic racism is a human rights and public health crisis.

<sup>29</sup> Palm Springs City Council Meeting, Listening Session July 18, 2020, 11:00 A.M., Unofficial Transcript.

<sup>30</sup> Video of Palm Springs City Councilmember Comments, "Jun 11, 2020 City Council Regular Meeting." palmspringsca.gov, uploaded by City of *Palm Springs, CA*, 11 June 2020, palmspringsca.new.swagit.com/videos/63230; Palm Springs City Council. (2020). Councilmember Comments [Unofficial Audiovisual transcript].

<sup>31</sup> Quote from Benjamin Franklin

<sup>32</sup> California Department of Justice, Office of the Attorney General, May 31, 1968, Palm Springs Section 14 Demolition, Loren Miller, Jr. Report findings charge that homes belonging to minority residents of Section 14 "were destroyed by a city-engineered holocaust.