



LUNCHEON ADDRESS BEFORE:

EXECUTIVE SESSION ON
HUMAN RIGHTS COMMISSIONS AND CRIMINAL JUSTICE

AND

THE JOINT BOARDS OF
THE INTERNATIONAL ASSOCIATION OF OFFICIAL HUMAN RIGHTS AGENCIES
AND THE NATIONAL ASSOCIATION OF HUMAN RIGHTS WORKERS

**THE HONORABLE JAMES E. CLYBURN
UNITED STATES HOUSE OF REPRESENTATIVES**

Saturday
September 16, 2007

Clayton Meeting Room
Hilton Hotel
255 Courtland Street
Atlanta, Georgia

PROGRAM IN CRIMINAL JUSTICE POLICY AND MANAGEMENT
Kennedy School of Government
Harvard University
79 JFK Street
Cambridge, MA 02138

(617) 495-5188

<http://www.ksg.harvard.edu/criminaljustice>
<http://www.hrccj.org>

L U N C H E O N S E S S I O N

(12:35 p.m.)

MR. STOWE: Good afternoon, everyone. My name is Jim Stowe and I'm pleased to be the, for a few days left here, the President of the International Association of Official Human Rights Agencies, and we are so glad that you are here to this joint conference effort. On behalf of also my colleague, Annette Moore, the President of the National Association of Human Rights Workers, right here. We welcome you here to this event and to this particular session on behalf of the John F. Kennedy School of Government, Harvard University Executive Session, whose session you have joined today and we bring you welcome on behalf of all three of those organizations.

We are pleased to have you here. We've been having a discussion for the last two years on the issue of criminal justice and whether or not it might be a human rights, human relations issue that many of us, from our agencies across the country, might engage in, in roles of advocacy, in roles of involvement, in roles of engagement in this issue. And in those discussions, we have gone back and forth on a number of things about how and why those of us who may be in human civil rights need to be involved in this issue, if we are not.

And we are pleased to have someone to sort of bring together a focus around those issues, who not only knows this from the standpoint of being in Congress and being interested in issues that affect human and civil rights across this country and around the world, indeed, but rather, someone who we know from the standpoint that can really relate to us as having been himself a director of a human rights agency in the State of South Carolina.

Each session that we have had at the Kennedy School of Government at Harvard has always included someone who might bring a perspective about his or her particular

station within the human rights field. We had someone come from South Africa, we had someone come in from Northern Ireland, we had a speaker come from Mexico City, and others who come around the world to offer that perspective, and we no less have someone of equal stature who is here with us today.

Let me just share with you his involvement in the field of human and civil rights, spanning some seventeen years as agency director of the commission in South Carolina, the Human Relations Commission on Human Affairs for the State of South Carolina, where he served as the Commissioner for some seventeen years. The piece that brings him a bit closer to us here this afternoon, however, is that he served also as the President of the National Association of Human Rights Workers and then also served as President of the International Association of Official Human Rights Agencies as well. And so he is the very first person in history of those two organizations to serve in that capacity.

So we are delighted to have join us someone again near and dear to us, a friend and colleague, someone who currently is the Majority Whip in the United States Congress, and let me give you some perspective on that. I'm learning as well about the whip, it was on a radio program. Evidently there is, for those of you who may know a little about hunting, those who are in hunting, hunting foxes and so forth and so on, use a whip and that whip is needed to have the dogs come back in line, to make sure that they are in fact hunting the correct way and they are going the right way, this, that and the other.

And so the Majority Whip in turn has a similar kind of responsibility in that he tries to get all his members back in line to be supporting the legislation going through on behalf of the legislative team. He is someone who has done it strategically. You may not see him much in front of the camera, although we see him more and more in front of the camera recently, Congressman Clyburn. But at any rate,

he is someone who is behind the scenes that has such a strategic thinking mind and you'll hear that in his comments I am sure.

What he'll do is come up now and present his thoughts, offer some remarks, and then Chris Stone who is leading us in this Executive Session effort at the Kennedy School of Government will come and offer a response to the comments being made then by Congressman Clyburn, after which we want you to get engaged in the process and ask questions.

We want to have this really be a lively session of interchange back and forth on this issue of, again, criminal justice, as it relates to those of us who may be in human civil rights work, and how it might somehow find its way onto our agendas, I know they are already very full to begin with. There are some key issues that you are going to hear from Jim Clyburn's perspective and others in this room that we ought to at least be aware of and really investigate how we can in fact engage ourselves in working toward that effort on criminal justice kinds of issues.

So, without any further delay in my introduction, let me please present to you U.S. Congressman James E. Clyburn, from South Carolina, our friend and colleague. Former President James E. Clyburn.

(Applause)

CONG. CLYBURN Thank you very, very much. Thank you, Jim, for being so kind in your comments of introduction to some and I hope presentation to a few, like Leon, that I've known for such a long, long time.

I want to, first of all, get this story right, because I don't want Jim to mess this thing up too much.

(Laughter)

CONG. CLYBURN On the Whip, I have to kind of explain what the whip really is and it's interesting, I do a lot of speaking to groups and people will sit there, and they'll look and then after the presentation, they'll have all the questions about exactly what is a whip. Well, as you

know, the Congress, there are certain things you learn, way back in the seventh and eighth grade about how our governmental structure is made up. And of course we learn about the two bodies, the House and the Senate, we learn the separation of powers, the executive and the legislative and the judicial and that sort of stuff.

But there are two things we never really learn a whole lot about and that is how the internal stuff is set up. Well, the United States House of Representatives, as all of you know, has got 435 people in it and there are five delegates and right now we are trying to make one of them a member of Congress, that vote I think will come up on Tuesday, we have already passed it in the House and it may get past the Senate, it's improving every day. Folks out in Utah would love to pick up another seat and so they may vote for this thing. What the President is going to do when it gets to his desk, I don't know.

That's one of the things that we learned earlier, there have been things, a bill passes both the House and the Congress, it then goes to the President. Now, the problem we've got is a few people learned that within each House, of course, you organize into your leader and you organize with a whip. Technically, the Speaker of the House is the speaker of the whole House, irrespective, there can be but one speaker, but what happens if you are the majority, your votes will determine who the speaker is.

And a lot of people don't pay close attention to this but every year that we organize, which is every other year, there is always two names up for speaker, the Republicans put up their candidate, the Democrats put up their candidate and whoever has got the most votes in the room, you are going to have for speaker. So, when you are in the majority, the whip is the number three position, because if you are in the majority, you are going to have your speaker, you have the leader and then you have the whip.

If you are in the minority, of course the whip

is the number two position, you don't have a speaker, so you've got your leader and then you've got the whip. Now, the leader's job is to set the agenda, the whip's job is to make sure that agenda gets approved. Now, the name came from the sport of fox hunting, where hunters ride on horseback behind hounds who are chasing foxes. Now, as you can imagine, as dogs sometimes do, they get distracted.

(Laughter)

CONG. CLYBURN Rather than focus on the hunt, they start looking out into the woods for other things, a few of you dogs in the room understand.

(Laughter)

CONG. CLYBURN And so what they did to keep these dogs in line, they started putting a rider on either side of the hunt, and that rider would carry the whip and it was that rider's job, any time the hound goes off, gets out of line, he would try to use that whip to get the hound back in. That's where the term comes from and that person is called a whip around, and so I do that because most of you know that at heart I'm basically a teacher and so I like to at least do something to teach a lesson.

I want to say a couple things to you about this whole issue of the judicial system. Last night, well, let me go back. I left home, Columbia, yesterday morning, after getting there Friday night, did an event there yesterday morning, I flew back up to Baltimore where the Army was about to christen a ship. Now, a lot of people don't know the Army has ships, everybody thinks all the ships are in the Navy, not true. And a new ship was being commissioned, having been named for Robert Smalls. Robert Smalls was a South Carolinian, African-American, who served in Congress, who was the person that put up the legislation or really a resolution in 1868 to provide for free public education in South Carolina.

Before that resolution, the education in this country was reserved for the elite. Robert Smalls, having

been a slave who, if you remember, became famous for having commandeered, along with his wife Hannah, twelve other slaves and his two children, they commandeered a ship called *The Planter* in the Charleston Harbor and delivered that ship from the Confederacy to the Union. His payoff for that was his freedom. And there is a different story about this, supposedly around \$1,500 bucks which he parlayed into tremendous wealth and went back to Beaufort.

And when he went back to Beaufort, he then purchased a house that he had been a slave in, became a very, very important person there and became a member of the Congress where he served for five terms. But as you know, things began to change in the South. But Robert Smalls, the reason a lot of people don't know about Robert Smalls is because unlike Frederick Douglas, who was a contemporary, he was in a part of the country that didn't have as much respect for his being, as Frederick Douglas was. You know a lot about Frederick Douglas, but if you think about the contributions to history, not to belittle Frederick Douglas in any way, I think he is probably, some people think, maybe outside of Martin Luther King, Jr., he may have been the best orator of all times, but that's because people heard him.

If he had been in the South, nobody would have heard him, he did this stuff in the North. Robert Smalls went back to the South or stayed in the South, went back to where he had been a slave because he knew the value of education. And when he introduced that resolution in 1868, if you are like I am and believe that probably the biggest contribution to this whole issue of equality and equity that any society can give is education, education is the great equalizer.

So then, if that's true, you've got to then agree that public education, free public education, that would be one of the most important if not the most important gift that could be given to a society. All that started in South Carolina in 1868 and all of it started as Robert

Smalls. So then if that deduction is correct, Robert Smalls has got to be one of the most important figures in the history of this country, he's got to be, few people know that. And that's why I went back up there yesterday morning and came back into Charleston last night to do an event, which was to introduce Mrs. Clinton at a banquet, NAACP banquet.

Now last night was kind of interesting, in the introduction, the occasion at that banquet last night, the occasion was given by the Vice President of the NAACP who happened to be my pastor Joe Darby. He talked about the judicial system and stated what that occasion was last night. Of course it's Jena, Louisiana, it was on everybody's mind, but then when Mrs. Clinton got up to speak, she talked about the judicial system. She mentioned Jena, but she went to the whole issue of sentencing and what has happened here with sentencing.

Let me tell you why the judicial system is so important. You've got a chief here. Now, and you've got prosecutors. We have allowed, because of inattentiveness, because of laziness, we have decided to take discretion away from the professionals, and we have all over this country whether at the federal level and there are a lot of states who put in these mandatory minimums, no matter what the extenuating circumstances are. We have taken away the ability of professionals to make decisions based upon what's before them.

So, irrespective of what may be before a judge, there is a limitation, we put limitations on what judges can do. What does that do? It then moves the decision making process as to what even gets to the judge, to the hands of the elected official, a prosecutor. Then the prosecutor can decide whether or not I'm going to let this case be tried, as in Jena's situation, as an adult or as a juvenile. If the case is tried as an adult, as in Jena, and I have certain prejudices, and if you have been following this case and

listening to the prosecutor, then you know this prosecutor has got a problem.

In fact, when I get back home tomorrow, we are doing special orders, we are going to call into question who this prosecutor is and we are going to be asking the Justice Department to take a look at this person, because this person, by his own words, is telling me something. Now, it means that I can determine, as a prosecutor, whether or not this person ever has the right to vote. If the person is tried as a juvenile, you go on one path. If they are tried as an adult and found guilty, in certain states, Louisiana is one of them, this person will never, at the age of what, fifteen, never get a chance to vote.

That's what makes this a civil rights issue, it is a big civil rights issue and that's why I think the professionals, and that's what you are, the professionals are going to have to take a hard look at this. Now, some of you may recall back when I was active with you, a case went up to the Supreme Court that, as professionals, we knew better than allow it to go forward, it was called *Crosen v. Richmond*. All of us who were in the profession at that time knew that that case was fatally flawed and should never go through the judicial system.

And every day I regret the fact that right here in Atlanta, I came down here with the NAACP, with Bill Gibson and he was the President or Chairman of the NAACP's national office, at the time, and we did not press that issue and we should have. We raised the issues and we told them what the dangers were, but they were not professionals in this field. And I think that that's where we have to be very, very careful.

There are going to be a lot of people getting on buses next week and they are going down to Jena. There are going to be thousands of people who will be down there next Wednesday and even though the Court of Appeals has now thrown the case out, they are going anyway and they should go anyway

because, once again, we've got to keep focus on what's happening here. They are throwing the conviction out, they are not throwing the case out. What are they saying? This person should not have been tried as an adult. What does that mean? Go back and try them again as a juvenile, irrespective of the fact that this case, according to most experts, should never have been in the judicial system to begin with. So the case is not over, so they are going to go back down there.

However, they are going to go back as civil rights workers. I've been one, I know Leon has been one, he has been President of the NAACP, but that's got nothing to do with what you do. And that is where I think we made some horrible mistakes in this field because as professionals we should have jumped up and down, done something to stop that case because the Croson case set affirmative action back twenty years in this country.

And by the time we got the Adderand case that came out of Colorado, and I don't know if anybody is here from Colorado, but by the time the Adderand case got there, by this time, I'm now in the Congress. Croson, I was with you. Adderand, I was sitting in the Congress. And I don't say this, I'm having a real problem getting back to the book, I'm writing this book that deals with all of this.

I don't know if you followed the Adderand case, but what we have done with the Adderand case, we have used that case which, luckily for us, by the time the case got up, the professionals had gotten involved and we were able to get that case, the briefs in that case written in such a way that the judges would have something to make a ruling on that we could live with.

And to just give you one case in point, that case came out, it was decided about a year before we were getting ready to reauthorize the highway bill. And, thanks to the good work of people like Parren Mitchell, who recently passed, Parren Mitchell became sort of the godfather of set

asides, he made it his profession to do small business and minority business stuff and put the set asides in legislation. Of course the Adderand case was challenging that. We had lost Croesen, we had lost the Piscataway, we had lost what was the case up in Michigan, Wygant. We lost all of those cases and the last little piece was sitting there in Adderand.

Luckily, I had had 17 1/2 years of interacting with you guys, you all have taught me well. I took those experiences from NAHRW and from IAOHRA and I went before the Congressional Caucus. A lot of people asked how the hell did you get elected President of the Congressional Black Caucus in less than six years in the Congress? Well, this is how, you all don't know it but you are responsible for that, because I'm sitting there and this issue is coming up, they are getting ready to reauthorize the highway bill.

And the Adderand case was there and my friends on the other side of the aisle who want to get rid of affirmative action, they were crowing about getting rid of the set asides. Just the last set aside program, they got rid of it from the Department of Defense, they got rid of everybody else, but the highway bill was coming up now, this was the last string. And I went before the members of the caucus, and I said, fellows, let me tell you all something, this is it, we are going to be out of the affirmative action business if we lose this. I said, now, I've got a plan I want to share with you and I shared with them what I wanted to do. They pledged to me all thirty-six of their votes. At that time, there were thirty-eight members of the Congressional Black Caucus, two are the delegates and thirty-six votes.

They pledged to me their votes. I then took those votes and I went to the chairman of the committee, who at that time was from Pennsylvania, Schuster, Bud Schuster, the chair of the committee, and Bud Schuster wanted to build a highway up there, the Bud Schuster Highway, it would have

cost \$600 million. Bill Clinton and Newt Gingrich had gotten together and they had come up with a highway bill that would be \$192 billion. Well, a \$192 billion bill, Schuster couldn't live with because he couldn't get his highway, and there were a lot of other things that some other members wanted.

So the caucus pledged me their votes, I then went to Schuster and I said, now, Bud Schuster, I've got a deal for you. We will help you defeat Bill Clinton and this whole, this debunks the whole notion that you've been hearing all the time that we all marched in lockstep with Bill Clinton. Bill Clinton's bill came before, it was put up by Newt Gingrich, we, en masse, I had thirty-six votes, I thought, and I said to Schuster, well, look, all I need is thirty, if you can bring me thirty, we've got a deal. What is it going to cost me? It's going to cost you the set aside program.

I said, now, here is the decision from Adderand, you give it to your lawyers. All I want you all to do with the highway bill is to put this process, laid out by the courts, put that in the bill, that's all I want you to do. This is a court decision, just put it in the bill, he agreed. That's how we saved it. Interesting thing that night that the vote came up, the reason I only got thirty-four caucus members, and I believe one of them just went south for reasons that, he just didn't know any better, he just made a mistake. But John Conyers who -- I said one member.

(Laughter)

CONG. CLYBURN I didn't get to be majority whip by being stupid.

(Laughter)

CONG. CLYBURN John Conyers, it was interesting, John Conyers had voted, well, he came on the floor that night at like 10:30 at night, he looked up and he saw on the board Schuster, and he voted no and walked out the door, and we couldn't find him.

(Laughter)

CONG. CLYBURN The next day when I say John, I said John, what the hell did you do? He says, man, I'm sorry, he said I looked up and I saw Schuster's name, I always vote against Schuster.

(Laughter)

CONG. CLYBURN But that's how we kept it.

Now, I'm telling you this story because I think there are a lot of things happening now in the judicial system that, if we aren't careful, we are going to be put back in the same position we were put in with affirmative action. We are going to have to, as professionals, we are going to have to help people build some better records and some better cases. We cannot let this Jena thing go by, and the reason this Jena thing has to be pushed is because, once again, let's compare Louisiana to North Carolina.

Now, we just had an overly zealous prosecutor in North Carolina prosecute some athletes, all of whom happened to be white, the alleged victim happened to be black. This prosecutor held back information, and of course the case got taken away from the prosecutor and given to the attorney general, who then did an independent investigation. And now, not only has all the stuff been thrown out, but they now are trying to figure out exactly what damages ought to be given to these people, how much it ought to cost the state for this over zealous prosecutor.

That's why when I get back home tomorrow we are going to be taking a hard look at this prosecutor, we are going to look at his history and we are going to see if there is stuff in that history that will allow us to bring these kinds of issues because, in this case, the entire role is racially reversed. That's why you professionals are going to have to get back involved in this, because no matter what the NAACP does, it's all volunteer. They are the volunteers, they aren't the professionals, they'll get on a bus, they'll go down and they'll sing, they'll bring, they'll march and

they'll bring attention to the issue. They will bring a lot of pressure.

But when all of that is done, somebody is going to have to quietly put together the legislation, put together the approaches, put together the kind of stuff that's needed, that's what you've got to do. Look, if you go back and read the history and the question is there about, I'll try to be more pointed in the question, but I want you to go back and look at the history. Remember, these things that make for -- . Let's take the case of Massachusetts. If you are in Massachusetts, you can be two doors away from the maximum punishment and still vote, that's right, you can still be in prison and still vote in Massachusetts, unless they did something in the last couple of years I don't know about.

What has happened, all of these disqualifying crimes were crimes that historically were more prone to be committed by black people and that's why you will see a lot more severe crimes that are not disqualifying crimes which are not used. The crimes, what they were doing was they went from three-fifths of a vote being applied to human beings, to going on the other side of the equation and rendering that vote null and void based upon convictions and the convictions were, in those days, by all white juries, by biased prosecutors.

It wasn't a question about whether or not they would be convicted, every time I went to jail in the '60s, I knew I was going to be found guilty. I just felt that if it got to the Supreme Court, I would then win my case. That was in the '60s. I stand a much better chance today in South Carolina.

(Laughter)

CONG. CLYBURN And now, I pointed that out for a reason, I'm saying this to lay a foundation for something I'm about to say. That's what I'm going to be talking about, Jim Stowe, when I say to my colleagues that what the EEOC did by allowing, so you know I read your mail, 75 percent of the cut

to come from your share, while increasing, they are taking that money for the national office. Why? Because the national office votes are a much more sure thing than what may go on out here in these local agencies where, over time, we have now built sensitivity and we have now built some political leverage.

You can do things at state and local levels today that you could not do thirty years ago, that role has reversed and it's not lost on the people on the other side of this issue. And so I think that when you look at how you involve yourself, I really believe that the two fields that you've really got to look at very closely and find a niche for yourselves, the two fields are in fact education and judicial. Those are the two fields, in this day and time, that will dictate almost everything else.

And so I'm pleased to be here with you and I'm going to be around with you until 4:00 this afternoon. And I will be available to you to respond to any questions you may have and to interact with you in any way that you may wish that I do. And I want you to know that I do not see my role in the Congress as an honorary one, that's not my role. One of the reasons, as Jim said, the reasons you have been seeing me more often today is because, on TV and stuff, is because the public has asked for that and that's because they asked me to respond to that.

I see my role the same way I just told you when we kept the affirmative action bill, the affirmative action program and the highway bill. Now we've reauthorized the highway bill against us now, it was ISTEA and then it went to T-21 and it's now Safety Loop. But in all three of those bills, the set aside program is still there, it's still intact and it's working very, very well. And I don't care if anybody knows how it happened. I learned a long, long time ago that there is no limit to what you can get accomplished, if you don't spend a whole lot of time worrying about who gets the credit, and so I don't care about any of that.

I suspect that there is enough going on in the Sixth Congressional District that I will get reelected. I think that I have a good enough relationship, I didn't run unopposed for whip, when it came time for the voting, I was the only one left because the other two knew how to count.
(Laughter)

CONG. CLYBURN Because I had my votes. And I think there is enough going on in my relationship within my caucus that I'll be all right. So that's not my issue here, my issue is whether or not my service in the Congress will help lay the foundation for those grandchildren I've got, that's what this is all about. And we have got to work together as professionals, not because anybody else is wrong, it's just that it's not their role, they've got a different role to play. You've got to play your role, they've got to play their roles and if we all do our thing right and do it well, we can get this thing done.

And so I want to close by saying to you that I give a lot of commencement speeches and no matter if it's junior high school, high school, college, law school, I have one message for every one of them and it is three words: never give up, never give up. I lost three times before I got elected, but three strikes and you are out is a baseball rule.

(Laughter)

CONG. CLYBURN Nobody should live their lives by baseball rules. You never give up. So I don't care how tough it may look today, you are building friends in high places where it really matters. I think, in the final analysis, we are going to win this battle and not just because it's the right thing to do, it's because you are going to do it right.

Thank you so much.

(Applause)

MR. STONE: I'm Chris Stone, I'm really happy to be here. I'm a Professor of Criminal Justice at Harvard

University, at the Kennedy School of Government, and I'm working with Jim and many others of you over the last couple of years on this Executive Session on Human Rights Commissions and the Criminal Justice System.

And I'm just going to say a couple of things to try and pull some of this together and then not stand between you and this opportunity to talk with the Congressman. I just want underscore a couple of things that Congressman Clyburn said.

First of all, I just think it's wonderful, we need a teacher, we need a historian to tell us the future sometimes and I think if you took a map of the issues before everybody, on the commissions' plates today, my guess is education and the administration of justice would not be the top two priorities of most commissions around the country, in terms of where the money is going, what the cases are. And yet seeing that those are the issues that matter, that's where the civil rights, human rights struggle for our future, for your grandkids, for all our grandkids, I think is a great vision and a really important reminder.

But I think your real message, in addition to highlighting those two areas, and of course the administration of justice is the one I deal with myself. The real message that I took from your remarks is that the role of these commissions, like the role of the police organizations that Chief Pennington and others run, are professional roles and that we must not confuse the role, the good role of advocates, of individual citizens, of interest organizations with the role of professionals. And it's going to be in the collaboration of professionals and the definition of professional niches that we are going to find the way to deal with the potential of human rights and civil rights abuses.

Whether it's threatening the right to vote, threatening a livelihood for our young people, that can come when the administration of justice is misused or when

discretion is taken away from professionals and becomes overly politicized or becomes subject to the kind of concerns about racial bias and other biases that these commissions are bulwarks against.

And I think if there is something, we have been, in our sessions, as Jim was talking about, we've been talking about a lot of different topics, and we have materials and we have ongoing discussions, and we would love to share those with you at any time you are interested, on what some of those specific niches might be for commissions, what those professional roles for commissions might be in the administration of justice.

But I think the fundamental message that I take from yours is that whatever those niches are, it's going to be about partnership between the professionals involved in these issues. You have professional law enforcement organizations, like the Atlanta Police that Chief Pennington runs, you have professional human rights commissions, human relations commissions, equal rights, community relations commissions, human affairs commissions that are playing a professional role and it's forging those partnerships.

When we work on these issues, we try to say that the commissions need a vision of what the right relationship is between government and citizens, between those protected classes, between the citizens and the residents, whether they are citizens or not citizens who need the protection, what the relations of people with government, you need a vision of what that relationship is. But then you also need your own relations, not just with the communities but with the other professionals involved, with law enforcement, with the courts, in order to play that professional role.

So, I just want to underscore that method of thinking, that way of thinking about finding a professional niche in these administration of justice issues, protecting the civil rights concerns and building those relations with the other professionals with whom we can make a difference.

So, thank you very much for that, and I look forward to the discussion now

And, Jim, back to you.

MR. STOWE: Thank you so much.

We have talked often about this whole idea of moving the field of work, and so that was the other piece that I certainly heard as well in Congressman Clyburn's comments.

We will now entertain again, for a few minutes, to have you ask your questions of the Congressman or add your comments to this discussion, we've got a few minutes left here to do that. We would ask that you state your name for the record because it is being part of the official record of the Executive Session and it's our responsibility to make sure we capture who made the comment as well. So, if you would do that for us and state your question or comment.

MR. THOMAS: I'm Percy Thomas, I'm an administrator of NFHTA Fair Housing Training Academy.

And I'm really intrigued and very pleased to hear your focus on education and tying it to the professionalism. And I just would like to encourage everyone in the room to join with me, partner with me at NFHTA because that is particularly the issue that we are trying to improve, our investigations, the building of the cases so they are airtight.

And then I think, Congressman, what I heard also is that not only must we deal with the professional level, at the complaint level in building a case, but we have to strengthen our leadership so that our leadership knows how to interact with the Congress, with all of these stakeholders out there to build a unified effort here in human rights and civil rights.

So I know, for many of you, this is the first time you've seen me, but I hope to talk with you, stop by the booth out there. I want to thank this conference, Mr. Lewis and Mr. Russell and all those people who encouraged us to

partner here and come here.

And most of all, I'm very appreciate of your comments. And just in closing, I'll say that Parren Mitchell was a mentor of mine when I was a young kid in the Civil Rights Movement, when we started the first march on Washington from Morgan State University.

MR. STOWE: Questions or comments? Please?

MR. VESPO-PAPALEO: Frank Vespo-Papaleo, the head of the New Jersey Civil Rights Commission.

And I just want to thank you and ask if you are considering running for President?

(Laughter)

CONG. CLYBURN No, I am not considering. I will tell you this though or at least I'll mention when I was growing up in South Carolina I knew somewhere way, down deep that I, well, I guess I was eight or nine years old when I started following politics. My parents had two rules in our house. Every morning at breakfast we had to recite a Bible verse and my father was a minister, he never told us to read the Bible, he just told us every morning we had to do a Bible verse. We couldn't say the same one twice and on the day he set down the rule, he took off the table--

(Laughter)

CONG. CLYBURN The second rule was every evening we had to share. It's kind of interesting to me, you hear all these tales about how black people grew up and all this kind of stuff. Every evening before retiring to bed we had to share with either both our parents or one of them some kind of current event. We were never told to read the newspapers, we didn't have television, but we knew that every evening after we did our homework we had to share with them some kind of current event. And the newspaper was delivered there every day and so you knew you had to read the newspaper.

So all this was just ingrained in me. So I started looking around, and I guess when I was in middle

school, we got involved with the NAACP when I was twelve years and then started looking around where I was going to live because I just knew it can't be in South Carolina to do what I wanted to do. So, to show you how little I knew, I started spending my summers in New Jersey and I decided I was going to live in New Jersey. I got married in Patterson, New Jersey and we went there to get married for that express purpose. We got married on June 24th, I left there July 1st and got the hell back to South Carolina.

(Laughter)

CONG. CLYBURN I'll tell you, one visit down to Straight and Governor Streets and I said, oh, lord, this is --. Bill Pascrell and I laugh about this very often right now, I have dinner with him very often and we laugh about that. I tell him he owes his election committee to me because if I had stayed there he wouldn't have gotten elected.

(Laughter)

CONG. CLYBURN Yes, ma'am?

MS. COVINGTON: I'm no longer in office so I don't follow rules anymore.

My name is Germaine Covington and I'm the former Director with the Seattle Office for Civil Rights.

One of the issues you raised was about sentencing and the juvenile justice system. So the conundrum for me is you want to have prosecutors and judges have flexibility, but how do you then work with that in a racialized context? And most of the juvenile justice system, with our own prejudices, biases and inherent feelings, how do you then try to get to justice from that? I mean I can see the difficulty in mandatory sentencing. I also see the difficulty in letting people have discretion, the discretion that led to that. So where is that medium ground and how can we formulate it, I think at the national level, and part of it at the local level or state level, to try and get that in place so that we don't go from one system that's bad for our

children to one that's even worse?

CONG. CLYBURN That's a great question, a great question, and that's where these people come in. I really believe that, I don't know if they still do it but when I got elected in 1992, a week after or before we were sworn in, right after we got organized, we all went up and spent a week up at the Kennedy School.

Are they still doing that?

MR. STONE: Yes.

CONG. CLYBURN And I want to tell you something, that was a week that was worthwhile to me because I didn't get into all the other things about understanding the process, but I think that in all things you always are searching for a balance. I had a group of people come to see me the other day, in fact on Thursday, who were particularly interested in the fact that, I don't know if you all know this or not but a lot of these, because of new stuff now, a lot of these paper companies are getting rid of all their holdings. I forget how many thousands of acres they've got in South Carolina, they are getting rid of them.

Now, I don't know exactly whether or not it's because of Canadian wood, I'm sure that they found a cheaper way to do something. And so what they are doing now, a lot of people are concerned about that because when they get rid of all these holdings, that means the developers are going to come in and that land is going to end up a strip mall or something. So everybody is trying to say you've got to be smart about this development.

So I said to them, I said, well, you know, these people came in, they want to stop it and this and that. And I said, well, now, you are a couple of months behind Westvaco, they've been here already, so now what we want to do here is try to find some kind of balance in this and any extreme, and you all know better in this business than I do. And I think one of the reasons I've had the kind of luck I've had is because when I was running the human affairs

commission I worked for four governors, two democrats and two republicans. And one of them was on TV the other day, Jim Edwards, who said that when I got elected governor everybody expected me to get rid of Jim Clyburn, he said I'm now glad I never did.

Now, he didn't tell the whole story and I know some of the rest of the story. But I think that what you have to do is really work with people and develop some kind of balance in what we are doing. There is no justice in these mandatory minimums, especially when you build into the system these great discrepancies like we've got between crack cocaine and powdered cocaine, that's in the law. And so when a judge looks out there and their hands are tied, and you are saying that's bad, you've got to get rid of that. Well, we can't refuse to get rid of that because it may go too far on the other side.

I think that what we have to do is work together and try to say, okay, this needs to be the jettisoned but over here we need to find some kind of common ground or some kind of equality in the system and work with other professionals to get that done. I think that all too often in our field we get a little sanctimonious about what we do because I mean most of our work is really faith-based. We are doing it for the least of these, we are feeding the hungry, we are doing what we need to do for the poor, the disenfranchised and all of this.

And I think sometimes we get carried away with that thinking, thinking the Lord's got a special place for me, and I'm going to have to listen to these other people. I really think that we have to really find a way to sit down with people, people that we don't necessarily agree with, and try to find some common ground. Everybody here knows I have a tremendous love for golf, I have a real passion for golf, but my passion for golf is not all wrapped up in the sport itself, it's wrapped up in the relationships that you build.

I've gotten more legislation passed in the

Congress on the golf course than anywhere else, because it's out there that you get to meet people and get to interact with people in different parties and different persuasions, and people learn that you are just a human being, just like that are. You just have to find some balance.

I agree that one thing that can be real, real bad, this discretion, but what is discretion? I mean the prosecutor has got discretion now and they are making decisions about whether or not to let this case go forward or just keep it here.

And what is happening, and if you take a look at it, and I think that professionals are going to find this, I know this to be the case, you will find that that discretion that prosecutors have often makes a determination of whether or not to even bring the case. So the discretion, the question is where it's going to be, so when black kids come up or kids from poor neighborhoods without anybody to vouch for them, a lot of negotiating takes place as to when the case is brought or whether the case is brought.

It's kind of interesting, you see this case going on right now that a very well known figure is going to meet with authorities tomorrow involving a little break-in at a motel room in Nevada.

(Laughter)

CONG. CLYBURN Now, he is going to meet tomorrow, somebody has already been charged, but when he goes tomorrow, he isn't going by himself, he is going with his lawyer. Now, I don't know how the guy who got charged went, but I know one thing, that's what happens in these things and that's where the negotiation takes place as to whether or not to even bring the charge in the first place and what kind of charge to bring.

MR. STONE: If I could just say one thing?

I want to come back to the earlier remarks you made about this, you said tomorrow you are going to take a look at the record of this prosecutor in Jena, and I think

that's a clue about how we deal with the balance you were talking about. It's about patterns, but the advocates will always fix on the individual case and they'll take that individual case as the example of what they don't want, but the professionals can take a look at the record overall.

And we need discretion for just the reasons to avoid the politics of the mandatory minimums and what that does, but when you have discretion, it's up to commissions and other oversight bodies to be doing the professional work, to look at the patterns over time. When you get a case like that, you can call for it after the fact, let's go back and let's look at this. But if somebody had been looking at the pattern of cases of that prosecutor over time to see whether there is a pattern of bias or a pattern of discrimination in these charges, you might have been able to avoid some of this and be able to save some other lives and be able to do some other justice.

So I think it goes exactly to this question of whether commissions can play this kind of professional role and look at the patterns, not just the individual cases.

MR. STOWE: Folks, we've come to the end of this piece. We have got a session coming up at 2:00, so we want to take a little bit of a break. For our commissioners coming up, we've got one session for commissioners, there are signs outside the doors, and also another session for those of you who are executive directors. And I believe we have a joint session starting, as I recall, for everyone to continue this dialogue and conversation. So, dismiss yourself from here, grab some dessert as you go, but we are going to reconvene then for the session coming up at 2:00.

Thank you so much. Let's give again thanks to the Executive Session and to Congressman Clyburn.
(Applause)

(Whereupon, at 1:36 p.m, the session was concluded.)