

STATE OF CALIFORNIA
DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT

PUBLIC HEARING
2017 DRAFT LIHEAP STATE APPLICATION

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT
2389 GATEWAY OAKS DRIVE
MARTIN LUTHER KING JR. CONFERENCE ROOM
SACRAMENTO, CALIFORNIA

MONDAY, AUGUST 15, 2016
9:00 A.M.

Reported by Jacqueline Toliver, CSR No. 4808

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APPEARANCES

Ms. Barbara Ramos, Hearing Officer

Mr. Jay Kubo

Ms. Debra Brown

Ms. Kristen Hart

Mr. Jay Kubo

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PROCEEDINGS

MONDAY, AUGUST 15, 2016; SACRAMENTO, CALIFORNIA

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HEARING OFFICER RAMOS: Good morning. I am Barbara Ramos with the Department of Community Services and Development. I am the hearing officer for today's public hearing on the 2017 Draft LIHEAP Application.

Today is Monday, August 15, 2016, and the time is 9:00 a.m. We are assembling at the Department of Community Services and Development, specifically the Martin Luther King Jr. Conference Room, to conduct a public hearing to receive testimony from interested parties regarding the 2017 Draft LIHEAP State Plan Application.

The hearing is being recorded by Court Reporter Jacqueline Toliver.

Is there anyone who has testimony at this time?

MR. PIPER: I do.

HEARING OFFICER RAMOS: Okay. The person requesting testimony is Gordon Piper, G-o-r-d-o-n P-i-p-e-r. He's a board member for the North Hills Community Association.

Go ahead.

MR. PIPER: My name is Gordon Piper. I'm a

1 retired State of California Civil Rights Agency
2 administrator and investigator. I worked for 31 years
3 for the State of California Department of Fair
4 Employment and Housing. I started my career conducting
5 systemic investigations of major public and private
6 employers in California.

7 And during my 31-year career with the State
8 Civil Rights Agency, I assisted in processing and
9 investigating complaints of discrimination and enforcing
10 both state and federal civil rights laws. And during my
11 career I've learned a lot about the different state and
12 federal laws that had to be enforced, and I also had the
13 opportunity to look at complaints and the evidence to
14 determine kind of what was true and what was false and
15 what evidence potentially might establish a violation of
16 state or federal civil rights laws, as well as
17 constitutional requirements.

18 For example, in the California Constitution
19 there's a prohibition against preferential treatment
20 related to race, color, national origin and ancestry in
21 both public contracting and public employment. And
22 there's also a requirement for equal protection, and
23 there is the laws that applies to state agencies and
24 government agencies, for example, and also at the local
25 level, or those in the private sector that may have

1 responsibilities in relation to public programs.

2 I'm here today to share comments in relation
3 to the public hearing on the proposed discriminatory
4 State of California Department of Community Services and
5 Development posted Draft 2017 State Plan Application for
6 the U.S. Department -- or to the U.S. Department of
7 Health and Human Services regarding the Low-Income
8 Energy Assistance Program, LIHEAP, and also to share
9 further comments regarding the State of California
10 Department of Community Services and Development Draft
11 Request for a Weatherization Waiver from the U.S.
12 Department of Health and Human Services Low-Income
13 Energy Assistance Program, which would also aide and
14 result in continuing discrimination against large
15 numbers of California residents in the CSD programs
16 receiving State of California and federal assistance in
17 violation of the State of California laws, as well as
18 federal laws and equal protection clauses in the State
19 of California and the United States constitutions.

20 The State of California laws and
21 constitutional provisions that I believe are being
22 violated by CSD and other recipients of LIHEAP funds and
23 other State of California funds and assistance and other
24 federal funds and assistance, such as the Unruh Civil
25 Rights Act contained in Civil Code Section 51 enacted

1 way back in 1959 that bars arbitrary discrimination, the
2 provision of services, privileges, advantages and that
3 each person be entitled to equal services, privileges,
4 and advantages in the State of California.

5 I'm here today to speak on behalf of those
6 whose civil rights and constitutional rights are being
7 violated by your department and also other subrecipients
8 of funding that your department receives not only from
9 the State of California but also the federal
10 government -- those who are poor and those where there
11 is a public trust for state officials to carry out their
12 responsibilities to serve those that are poor and who
13 have civil rights and constitutional rights that need to
14 be respected. I feel it's important for the California
15 Department of Community Services and Development to earn
16 the trust of California residents.

17 In my research in the last two years, I
18 believe that State agencies, such as your agency, and
19 other State agencies receiving Greenhouse Reduction Fund
20 monies, along with federal funds, have violated the
21 public trust and have violated State and federal civil
22 rights laws and the constitutional rights of
23 approximately 27 million Californians in 6,000 census
24 tracts, 75 percent of California census tracts, and also
25 the civil and constitutional rights of approximately

1 14 million non-Hispanic Caucasians located in those
2 6,000 census tracts, and also the rights of millions of
3 Californians located in the -- half of California census
4 tracts that your Low-Income Weatherization Program is
5 discriminating against. And I also feel there's
6 evidence of discrimination by CSD and your subrecipient
7 providers in terms of LIHEAP funding coming from the
8 U.S. Department of Health and Human Services.

9 Beyond the Unruh Civil Rights Act, which bars
10 arbitrary discrimination by public agencies -- which I
11 helped to enforce the Unruh Civil Rights Act -- there is
12 also other State laws and regulations and constitutional
13 requirements that are applicable. These include the
14 constitutional prohibition against preferential
15 treatment based on considerations of race, color,
16 national origin and ancestry in public contracting and
17 in public employment that's contained in the California
18 Constitution. That came from California voters that
19 approved this back in 1996.

20 California also has the constitutional
21 requirement for equal protection. In Article 1, Section
22 7, it mandates that no person -- "no person" may be
23 denied equal protection of the laws. That doesn't mean
24 that CSD is only supposed to serve 2000 of California's
25 8,000 census tracts, or only half of the counties, or to

1 disenfranchise rural counties in Northern California and
2 Eastern California and deny a poor person who qualify
3 for these programs in any census tract around
4 California.

5 I happen to be on the board of an
6 organization, the Oakland Hills Community Association,
7 in the Oakland Hills. Two years ago I was told by a
8 State agency representative that, "Oh, where you live
9 you wouldn't qualify for this State and federally funded
10 program.

11 Now, that got my attention because I knew that
12 violated State and federal civil rights laws and my
13 constitutional rights, along with 27 million other
14 Californians, or half of the residents -- or residents
15 in half of California counties to equal protection under
16 the law. So I started doing research and found that not
17 only was I being denied a potential State and federal
18 grant because where I was located but that your
19 department was also awarding a hundred percent of the
20 grants or the funds for low-income weatherization, or
21 potentially using funds allocated by three federal
22 agencies to violate the civil and constitutional rights
23 of millions of Californians.

24 There are also violations, I believe, of the
25 California Government Code Section 11135(a), which is

1 State of California's equivalent to Title VI of the
2 Civil Rights Act of 1964, which states that no person --
3 "no person" is denied the right to participate in or the
4 benefits of a program receiving state assistance.

5 Does that ring a bell? When you limit the
6 benefits of your Low-Income Weatherization Programs or,
7 perhaps, your LIHEAP weatherization program that you're
8 asking in a waiver that you be allowed to use 25 percent
9 of LIHEAP funds for weatherization and use the
10 discriminatory standards that have been established in
11 your several sets of guidelines for the Low-Income
12 Weatherization Program; that you limit that just to
13 25 percent of Californians and deny the same rights to
14 27 million Californians, or to a poor person in any of
15 these 6,000 census tracts who are denied services,
16 privileges and advantages. Because this was targeted
17 primarily to benefit low-income in minority communities
18 of color and State laws of questionable
19 constitutionality.

20 There are also violations, I believe, of the
21 California Resources Code Section 71110 which was
22 enacted to ensure fair treatment of all races and
23 incomes in the implementation of environmental
24 legislation programs and policies in the State of
25 California.

1 Part of the problem here is that the benefits
2 and access to the benefits has been targeted -- and by
3 lobbying -- by public interest law firms working with
4 coalitions and minority community organizations to
5 maximize the benefits just to minority communities of
6 color. And in the 2000 census tracts that were selected
7 by the State and the Air Resources Board Environmental
8 Protection Agency and labeled as so-called
9 "disadvantaged communities," 84 percent of the residents
10 are ethnic minorities; and this, I found in my research,
11 has a disparate impact on a huge class of approximately
12 14 million non-Hispanic Caucasians.

13 And the discrimination also extends to both
14 minorities and non-minorities in those 6,000 census
15 tracts, or half of -- 29 of California's 58 counties
16 that are denied benefits where a substantially larger
17 percentage of the population who happen to be
18 non-Hispanic Caucasians and where the benefits weren't
19 targeted on a discriminatory basis on the basis of the
20 considerations of race, color, national origin and
21 ancestry.

22 Another law that's been violated is the
23 California Fair Employment Housing Act that, like the
24 Unruh Civil Rights Act, was enacted way back in 1959 by
25 the California Legislature. And it required

1 nondiscrimination in terms of employment practices
2 related to employment provision of jobs or training.

3 But the program that was approved by CSD is
4 targeting benefits essentially to low-income minority
5 communities of color on a restricted basis and is
6 supporting discriminatory provision of co-benefits
7 targeted to provide jobs to the max essentially to
8 ethnic minorities located in just 2,000 of 8,000
9 California census tracts.

10 So maybe you're like me. That you happen to
11 live in one of those 6,000 census tracts where CSD and
12 the State -- multiple State agencies are not targeting
13 jobs or planning or technical assistance to be provided.
14 I couldn't hire myself, for example, for one of the
15 grants that I was -- or I was refused an opportunity to
16 apply for based on where I live because I didn't live in
17 a so-called "disadvantaged community."

18 Some of the people that advocate it recently
19 approved new environmental laws, sent a letter to the
20 head of the State Air Resources Board indicating
21 minorities are the new majority, and they should be
22 rewarded essentially with co-benefits or other program
23 benefits, just to so-called 2,000 census tracts that
24 were so-called disadvantaged communities.

25 That seems to suggest -- to me anyway -- that

1 the 6,000 California census tracts and the 27 million
2 Californians that live in them are actually
3 disadvantaged communities because they're being denied
4 by your department and other State agencies from
5 receiving Greenhouse Gas Reduction monies that are
6 linked to federal funds that require nondiscrimination
7 and are being denied benefits and co-benefits at these
8 jobs and training and that violates State and federal
9 law.

10 Let's talk about the federal laws. The
11 federal laws -- the federal Executive Orders and
12 constitutional provisions that I believe have been
13 violated and not effectively enforced in relation to the
14 provisions of LIHEAP funding and benefits and related
15 federal program funding and assistance being provided
16 for CSD programs and staffing related to home energy
17 assistance, weatherization, or for administration of
18 federally assisted programs.

19 When I was reading online about CSD, I found
20 basically you are kind of a quasi-federal State-funded
21 program. The research that I did this week, I saw one
22 indicating that 72 positions, for example, at CSD in
23 relation to funding that appeared to be coming from
24 federal agencies such as U.S. Department of Health and
25 Human Services.

1 Among the civil rights laws that are being
2 violated are Title VI and VII of the Civil Rights Act of
3 1964, Title VII in terms of the discriminatory -- trying
4 to promote co-benefits, targeting minorities of
5 communities of color restricted to just 2000 California
6 census tracts, or 25 percent of Californians.

7 The CSD is also violating, clearly, the Civil
8 Rights Restoration Act of 1987 that was approved by
9 Congress and applied to Title VI of the Civil Rights Act
10 of 1987 that mandates a recipient of federal assistance
11 ensure nondiscrimination in their total operations and
12 in all programs and activities of the recipient or
13 subrecipient and not just in the specific program or
14 federal contract or block grant that provides the
15 federal assistance.

16 Now, that's a real problem with respect to
17 your Low-Income Weatherization Program and your LIHEAP
18 Program coming from two different federal agencies.

19 From my research and attending the June 2nd
20 hearing regarding the Low-Income Weatherization Program,
21 evidence emerged at that hearing or that meeting
22 convened with stakeholders that indicated that CSD and
23 the State were violating Title VI and VII of the Civil
24 Rights Act of 1964 with respect to the Low-Income
25 Weatherization Program and your several programs that

1 are part of that particular program.

2 And when you receive LIHEAP funds, many
3 millions of dollars from the U.S. Department of Health
4 and Human Services, that doesn't -- is not restricted to
5 just the funding you receive from that federal agency.
6 It applies to your total operations. And the mandate is
7 that -- by Congress is that this applies to your total
8 operations and all your programs and activities. So you
9 can't discriminate with your left hand and take from the
10 federal and the State funds and then with your right
11 hand say, "Oh, we're not discriminating."

12 In the Civil Rights Act of 1987, Congress
13 overturned a prior decision and overturned the veto from
14 the President and indicated that the nondiscrimination
15 requirements -- that when Congress approved the Civil
16 Rights Act of 1964, Congress indicated their intent was
17 to establish the permanence of the nondiscrimination
18 policy in programs receiving federal assistance.

19 And that applies to the assistance you receive
20 from the Department of Energy where you discriminate in
21 the Low-Income Weatherization Programs, it applies to
22 the funding that you receive from the U.S. Department of
23 Health and Human Services, or the funding that you
24 receive from the U.S. Department of Housing and Urban
25 Development.

1 You get block grant funds, for example, as
2 well as other funds from the U.S. Department of Health
3 and Human Services, and then you take those block grant
4 funds. That extends the obligation beyond just
5 complying with the detailed Title VI regulations, the
6 U.S. Department of Energy or the U.S. Department of
7 Health and Human Services, to kind of cross-cutting, I
8 guess, laws such as Title VII of the Civil Rights Act of
9 1964.

10 So when you -- when the CSD and the State
11 discriminates in violation of Title VI regulations in
12 accepting federal funds -- the obligation comes to also
13 not to discriminate with respect to Title VII covering
14 employment and training. But your programs that are
15 supporting targeting of benefits and employment and
16 training that are restricted to 2000 census tracts and
17 half of California counties targeting benefits primarily
18 for minority communities of color where 84 percent of
19 the residents are ethnic minorities violates both Titles
20 VI and VII.

21 I'll give an example. I live in a -- not only
22 was I told I couldn't qualify for a State and federally
23 funded program, one of many that the State had, because
24 of where I lived, I did research regarding the census
25 tracts that were included in the so-called disadvantaged

1 communities by the Environmental Protection Agency and
2 the California Air Resources Board, and CSD, and I found
3 that 77 percent of the census tracts in the city where I
4 live are not in the so-called disadvantaged communities
5 and essentially are being denied benefits.

6 So if you're a poor person relying on CSD to
7 ensure compliance with Title VI and VII and to make
8 available benefits that you should qualify for in terms
9 of either the LIHEAP or the Low-Income Weatherization
10 Programs that your department has, there's a real
11 problem.

12 In the Oakland Hills where I live, the entire
13 Oakland-Berkeley Hills were red-lined. And essentially
14 that's what was done in State legislation approved in
15 recent years and proposed even this year to expand the
16 discrimination in violation of State and federal laws in
17 the constitution. People are being denied important
18 benefits, and they rely on you to serve them -- our
19 poor.

20 So I'm here today to speak for those people
21 whose civil rights and constitutional rights are being
22 violated. And when I worked for the State Civil Rights
23 Agency for 31 years, sometimes we would have people that
24 would be angry or might be difficult -- considered
25 difficult when they came in and potentially felt that

1 their rights had been violated. But I learned that I
2 was supposed to give my best service to that person and
3 not deny them services or privileges or advantages that
4 they were entitled to under State and federal laws or
5 the provisions of grant programs or block grant funding.

6 And when the federal government gives block
7 grant funding to CSD, that comes with strings. That
8 means you can't discriminate with your left hand in
9 terms of your Low-Income Weatherization Programs and
10 then claim, "Oh, I'm doing a good job." What I found
11 when I researched this week was that it appears that CSD
12 is using some of your LIHEAP providers, the
13 subrecipients of federal funds from the U.S. Department
14 of Health and Human Services, to administer a program
15 that in the left hand will essentially deny benefits to
16 poor residents that might otherwise qualify because
17 they're in one of the 6,000 census tracts that are
18 red-lined and excluded from benefits by the Air
19 Resources Board and the State, and apparently with the
20 support of some federal agencies that are continuing to
21 provide funds when they've received Title VI complaints
22 that pointed out the violations of civil rights of many
23 Californians.

24 I wanted to also point out that Executive
25 Orders 12612 and 13132, the Federalism Executive Board,

1 issued by both President Reagan and President Clinton,
2 that these orders were issued and intended to ensure
3 that the actions or regulations of federal agencies did
4 not violate the principles of federalism and they would
5 limit the policymaking discretion of the states and to
6 carefully access and assess need for such action.

7 I found that federal agencies, since the
8 Executive Order 12898 for so-called environmental
9 justice was issued by President Clinton in 1994, in the
10 last 22 years appeared to have been violating the
11 requirements of the Federalism Executive Orders and
12 promoting discriminatory practices or preferential
13 treatment in the provisions of funding for programs that
14 have targeted benefits substantially to minority
15 communities of color in California and in states around
16 the country.

17 And not only do they have programs but many
18 staff that are working essentially to promote
19 preferential treatment based on considerations of race,
20 color, national origin and ancestry in violation of
21 Congress's stated intent to ensure the permanence of
22 nondiscrimination policy, or not using tax dollars that
23 we all provide to just provide benefits for some based
24 on considerations of race, color, and national origin
25 and ancestry.

1 Congress wanted every American, every
2 Californian, their rights to be respected. And the
3 federal civil rights laws indicate that you can't deny
4 potential recipients the opportunity to participate in
5 these programs or to the benefits of these programs to
6 any Californian and to any poor Californian who may
7 qualify for these programs, be they LIHEAP or the
8 several Low-Income Weatherization Programs.

9 There's also Executive Order 12250 that
10 requires the U.S. Department of Justice to ensure the
11 consistent and effective implementation of various laws
12 prohibiting discriminatory practices on the basis of
13 race, color, national origin and ancestry in programs
14 and activities receiving federal assistance.

15 I'll be sending my comments to a series of
16 organizations and individuals that I believe should be
17 aware that your programs violate the civil and
18 constitutional rights of many Californians and that this
19 needs to be addressed.

20 I hope to communicate this to Governor Brown,
21 to the U.S. Attorney General, Loretta Lynch, Department
22 of Justice, to the Director, Vanita Gupta, of the Civil
23 Rights Division of the Department of Justice, to the
24 Director of the Federal Coordination and Compliance
25 Section of the Department of Justice, to the State

1 Attorney General, Kamala Harris, the U.S. Department of
2 Health and Human Services, to the U.S. Department of
3 Energy, U.S. Department of Energy's Office of Civil
4 Rights Director, Anna Gustin, to the U.S. Equal
5 Employment Opportunity Commission, to the California
6 Department of Fair Employment and Housing, and to
7 California Air Resources Board.

8 I found that there are problems not only here
9 in California, that they extend all the way to the
10 Justice Department and the White House in terms of
11 ensuring compliance of Executive Order 12250 and
12 effective enforcement of our nation's civil rights laws.

13 I've not found to date the laws are being
14 adequately or effectively enforced when it comes to
15 funding for programs such as the Low-Income
16 Weatherization Program or the LIHEAP program or the
17 LIHEAP weatherization program, and that LIHEAP providers
18 and CSD, I believe, are violating, again, both State and
19 federal laws and constitutional rights and denying equal
20 protections to many Californians.

21 There's also a problem with respect to the
22 language of Section 2.2 of Executive Order 12898 that
23 clarified that each federal agency shall conduct its
24 programs, policies, and activities that substantially
25 affect human health or the environment in a manner that

1 ensures such programs, policies, and activities do not
2 have the effect of excluding persons, including
3 populations, from participation in, denying persons,
4 including populations, the benefits of -- or subjecting
5 persons, including populations, to discrimination under
6 such programs, policies, and activities because of their
7 race, color, or national origin.

8 This goes back to the several federal agencies
9 that are providing funding to your State department,
10 which includes the U.S. Department of Health and Human
11 Services that provides the LIHEAP funding, U.S.
12 Department of Energy that's providing substantial
13 funding for the weatherization programs that your
14 department has their responsibility to administer in a
15 nondiscriminatory manner, and also to HUD, the U.S.
16 Department of Health and Housing and Urban Development.

17 You get different types of funds. You get
18 block grant funds. You get other federal funds. You
19 get funds from the State. And I call on the federal
20 agencies to comply with this requirement in Executive
21 Order 12898.

22 By way of background, I worked for 31 years
23 for the State of California Civil Rights Agency in
24 different capacities ranging from an investigator
25 consultant to senior consultant to district office

1 administrator in Oakland, Sacramento, and San Francisco,
2 and as a special assistant to the deputy director, I had
3 responsibilities for processing and investigating
4 discrimination complaints and helping enforce State and
5 federal civil rights law. I also helped to conduct
6 investigation of discrimination involving major public
7 and private employers.

8 I have a lot of experience. I've learned what
9 the laws are, and I've learned you can't always accept
10 at face value some of the representations that are made
11 by parties regarding their compliance with the law,
12 including the California Department of Community
13 Services and Development.

14 I've conducted research in the last two years
15 regarding what I believe and have found to be
16 discrimination involving the actions of federal, State
17 of California, regional and local government agencies of
18 private sector recipients of government funding here in
19 California, including the California Department of
20 Community Services and Development and the California
21 Air Resources Board, that were involved in actions that
22 have resulted in violation, I believe, of longstanding
23 State and federal civil rights laws and federal and
24 State of California regulations for ensuring
25 nondiscrimination. The actions I have found in my

1 research result in a rapidly growing systemic
2 discrimination in programs involving public contracting
3 and employment.

4 I also previously shared I found in my
5 research regarding the funding from several federal
6 agencies, including the U.S. Department of Health and
7 Human Services and the U.S. Department of Energy to the
8 State of California Department of Community Services and
9 Development and subrecipients for such programs and
10 activities as the single-family and small
11 multiple-family weatherization programs, single-family
12 solar PV, the CSD guidelines for the Low-Income
13 Weatherization Program, LIHEAP, and WAP, W-A-P, and the
14 latest Low-Income Weatherization Program, LIWP, final
15 multiple-family program and its guidelines, that
16 basically I believe that these programs are being
17 implemented in a manner that violates the civil rights
18 and constitutional rights of many Californians.

19 I previously advised CSD in my two sets of
20 written comments regarding its proposed guidelines for
21 these programs that I felt that their programs violated
22 Title VI and VII requirements of the Civil Rights Act of
23 1964, the above-cited State civil rights laws, and the
24 equal protection clauses in the State of California
25 Constitution and U.S. Constitution; yet CSD went ahead

1 with adopting discriminatory program guidelines for
2 these programs in making use of leveraged federal agency
3 funding from Health and Human Services block grant
4 funding and Health and Human Services Home Energy
5 Assistance Program and LIHEAP Weather Program funding,
6 and staffing assistance from the Health and Human
7 Services in the Department of Energy that provides
8 millions of dollars -- millions of dollars for many
9 years to this department and is essentially aiding and
10 abetting State agencies and local agencies and private
11 subrecipients of LIHEAP and low-income weatherization
12 funding in violating civil and constitutional rights of
13 many Californians in the Low-Income Weatherization
14 Program.

15 I found that there are violations of State and
16 federal -- State of California civil rights, the
17 California Constitution that were cited in my comments
18 earlier; also the federal civil rights laws in Title VI
19 and VII regulations of nondiscrimination requirements in
20 multiple Executive Orders cited earlier, Title VI and
21 VII, and to the Civil Rights Restoration Act of 1987
22 with regard to California Department of Community
23 Services and Development and many of the recipients of
24 Health and Human Services and DOE funding.

25 CSD's actions in relation to both the

1 low-income Home Energy Assistance Program and the
2 Low-Income Weatherization Program, LIWP, I believe
3 clearly violate the Civil Rights Restoration Act of 1987
4 requirements for ensuring nondiscrimination in the
5 recipient's total operations based on considerations of
6 race, color, national origin and ancestry in all of the
7 programs and activities of many of these recipients and
8 subrecipients of federal assistance.

9 I found in my research that your department in
10 the implementation of the multiple Low-Income
11 Weatherization Programs and the design and
12 implementation of the LIHEAP Program for the Home Energy
13 Assistance Program and LIHEAP Weatherization appear to
14 be restricting the opportunity to participate or to
15 receive some of the important benefits in the federally
16 assisted program by intentionally restricting benefits
17 just to less than 2,000 California census tracts
18 targeting low-income weatherization program benefits in
19 a discriminatory manner to low-income minority
20 communities of color where nearly 84 percent of the
21 residents were ethnic minorities while excluding
22 potentially eligible low-income residents, many of whom
23 are not ethnic minorities, located in nearly of 6,000
24 California census tracts and half of California's just
25 58 counties.

1 The California Department of Community
2 Services and Development, I believe, also has involved
3 many local agency providers and subrecipients of federal
4 funds from the Department of Energy or the Department of
5 Health and Human Services, including both government
6 agencies and nonprofits, in the discriminatory
7 restriction of access to some benefits by actions such
8 as using community action agencies that were LIHEAP
9 providers to separately target benefits in a restricted
10 and discriminatory manner that disparately treated and
11 disparately impacted many potentially eligible
12 low-income non-minorities in the Low-Income
13 Weatherization Programs funded by the Department of
14 Energy and by the State of California located in 6,000
15 California census tracts and half of California
16 counties, including most rural counties of Northern and
17 Eastern California.

18 I found in my research regarding the federal
19 government's implementations of multiple federal
20 Executive Orders, including the Federalism Executive
21 Order 1225 and Executive Order 12898, that federal
22 agencies in the last 22 years since Executive Order
23 12898 was issued that violated provisions of the
24 Federalism Executive Orders by failing to consider the
25 impacts on State and local government agencies in their

1 implementation of state civil rights laws in
2 implementing so-called environmental justice programs
3 targeting many important benefits for minority
4 populations or low-income communities for minorities
5 were the vast majority. This has actively encouraged
6 and resulted in discriminatory actions by State agencies
7 such as here in California those local government
8 providers who are nonprofit providers that you're using
9 in programs such as LIHEAP and the Low-Income
10 Weatherization Program that are using both and
11 essentially being taught how to discriminate in relation
12 to the provisions of services.

13 This is a great disservice to Californians to
14 be involving other government agencies and nonprofit
15 providers in actions that violate State and federal
16 civil rights laws.

17 This is actively encouraged and resulted in
18 discriminatory action by state's local agencies, such as
19 here in California, by local government agencies and
20 nonprofit providers that get funds that are engaging in
21 preferential treatment for minorities, which violates
22 Congress's intent in enacting Title VI of the Civil
23 Rights Act of 1964 to ensure the permanence of the
24 nondiscrimination policy in any program or activity
25 receiving federal assistance.

1 This also undercuts the State of California's
2 constitutional prohibition against preferential
3 treatment in public contracting and public employment
4 related to race, color, national origin and ancestry,
5 and the prohibition in the California Unruh Civil Rights
6 Act against public agencies discriminating in the
7 provision of services, privileges and advantages on a
8 broad range of covered basis.

9 And the Act has been interpreted repeatedly by
10 the California Supreme Court. They cover not only race,
11 color, and national origin and ancestry but other bases,
12 and that might include, potentially, geographical
13 location, or add in income in terms of the codified
14 definition of "environmental justice."

15 Environmental justice means it's supposed to
16 be fair to all races and cultures and incomes and not
17 just to minority communities of color in 2000 census
18 tracts but to all races, all cultures, and all incomes.

19 I found in reviewing online regarding the
20 California Department of Community Services and
21 Development discriminatory implementation of the
22 Low-Income Weatherization Programs and LIHEAP programs
23 that federal agencies were informed of your department's
24 intention to restrict benefits because of so-called
25 disadvantaged communities in the Low-Income

1 Weatherization Program and in leveraging the LIHEAP
2 program and its funding of the use of LIHEAP funding for
3 weatherization program benefits which would result in
4 discrimination, in differential treatment of many
5 non-minority, low-income Californians and not included
6 in the so-called disadvantaged communities and have a
7 disparate impact if this proposed discriminatory Draft
8 2017 LIHEAP State Plan is not rescinded and substantial
9 changes made to ensure nondiscrimination by all of the
10 recipients in the California Department of Communities
11 Services' LIHEAP and Low-Income Weatherization Programs,
12 and to ensure nondiscrimination in your total
13 operations.

14 Not just in one program. You're required to
15 not discriminate in your total operations and all your
16 programs and activities as required by Title VI and VII
17 of the Civil Rights Act of 1964, and particularly by the
18 Civil Rights Restoration Act in 1987 which amended Title
19 VI.

20 The U.S. Supreme Court in 1995 in a landmark
21 decision in "*Atarand v. Pena*," then Secretary of
22 Transportation, involving a major federal agency, ruled
23 that all governmental action based on race should be
24 subject to a detailed judicial scrutiny to ensure that
25 the civil rights to equal protection has not been

1 infringed. In order to not violate the constitution,
2 there must be a compelling government interest.

3 The actions of the California Department of
4 Community Services and Development, State of California,
5 and the California Air Resources Board that adopted
6 several sets of discriminatory guidelines for agencies
7 implementing State of California energy and
8 weatherization programs, such as your Low-Income
9 Weatherization Program and low-income LIHEAP Program, or
10 LIHEAP Weatherization, result in intentional
11 discrimination, disparate treatment, and disparate
12 impact against a large number of non-minority,
13 low-income Californians and half of California's 58
14 counties, approximately 6,007 California census tracts,
15 violates their civil rights under State and federal
16 civil rights laws and equal protection laws in
17 California Constitution and the U.S. Constitution.

18 Scrutiny of the California Department of
19 Community Services and Development's online fact sheets
20 regarding the Low-Income Weatherization, LIWP, and the
21 LIHEAP weatherization program found online recently
22 revealed the extent of the discrimination is now being
23 engaged in and it would be perpetuated in the Draft 2017
24 LIHEAP State Plan and also the proposed low-income
25 Persons 2016 State Plan Applications to the U.S.

1 Department of Energy if the plans as written and
2 proposed are finalized and funded. Unless they're
3 rescinded and substantially revised, this could result
4 in violation of various state and federal civil rights
5 laws, constitutional requirements, the Civil Rights
6 Restoration Act of 1987 requirements that recipients and
7 subrecipients of federal assistance, like the California
8 Department of Community Services and Development, and
9 other LIHEAP and Low-Income Weatherization
10 subrecipients, do not discriminate in their total
11 operation in all of their programs and activities.

12 The CSD fact sheet for the State and federally
13 assisted Low-Income Weatherization Program showed the
14 State in the 2014-15 State budget provided \$75 million
15 in funding for the Low-Income Weatherization Program and
16 then allocated a hundred percent of this funding, along
17 with federal funds for administration and staff, just to
18 serve essentially low-income households located in
19 so-called disadvantaged communities located in just
20 25 percent of California census tracts and half of
21 California counties.

22 The fact sheet noted that an estimated 17,700
23 households would receive benefits from the Low-Income
24 Weatherization Program, which targets benefits primarily
25 to populations where 84 percent of the residents were

1 ethnic minorities.

2 This has a disparate impact on non-Hispanic
3 whites and many poor people that just don't happen to
4 live in some of those 2,000 so-called disadvantaged
5 communities. It's going to force people to say, "I've
6 got to move somewhere else if I want to qualify for
7 rights that I'm supposed to be entitled to under State
8 law and federal law."

9 The CSD information regarding the LIHEAP
10 weatherization program for program year 2014 noted that
11 it had weatherized with million dollars of federal
12 LIHEAP weatherization program funds 17,659 homes. The
13 proposed waiver requested by the California Department
14 of Community Services and Development in a May 6, 2016,
15 letter to the Health and Human Services Office of
16 Community Service Director Jeannie Chaffin proposed a
17 waiver to use 25 percent of the estimated total LIHEAP
18 funds for 2017, over \$170 million, roughly \$43 million
19 for residential weatherization utilizing not LIHEAP
20 standards but Department of Energy's weatherization and
21 installation standards, were apparently being utilized
22 in a discriminatory manner in the LIHEAP weatherization
23 program installation that are being done by CSD.

24 What I found in my research is that California
25 Department of Community Services and Development and its

1 subrecipients of federal funding from Health and Human
2 Services and the Department of Energy have been doing
3 and using federal funds and in the last two years has
4 targeted the majority of benefits in a discriminatory
5 manner that has preferentially treated low-income
6 minority communities of color located in just 25 percent
7 of California census tracts and half of California
8 counties in a manner that violates Title VI and VII of
9 the Civil Rights Act of 1964, violates the Civil Rights
10 Restoration Act of 1987, and the equal protection
11 clauses in the California Constitution and the United
12 States Constitution.

13 My research both online and attending the
14 June 2nd stakeholders meeting held by your department in
15 Sacramento for its Low-Income Weatherization Program
16 revealed that the California Department of Community
17 Services and Development has been involving
18 subrecipients of the federal funds it receives for some
19 of its weatherization programs receiving federal
20 assistance in actions that violate the assurance of
21 compliance with nondiscrimination requirements in Title
22 VI and the Title VI regulations of the Department of
23 Energy and presumably those of the Department of -- U.S.
24 Department of Health and Human Services, as they imply
25 under the Civil Rights Restoration Act of 1987 to Title

1 VI of the Civil Rights Act of 1964, to the total
2 operations of your department and those of your
3 subrecipients doing weatherization program work funded
4 by multiple federal agencies.

5 These actions also violate the requirements of
6 State civil rights laws and constitutional requirements
7 that I've cited.

8 I filed a formal Title VI complaint with the
9 U.S. Department of Health and Human Services and also
10 the U.S. Department of Energy approximately mid-April of
11 2015, and a separate Title VI complaint with the U.S.
12 Department of Justice, and found in reviewing documents
13 obtained from a Freedom of Information Request that the
14 California Department of Community Services and
15 Development and its Deputy Director, Kathy Andry, in a
16 May 20th, 2016, letter to U.S. Department of Energy,
17 Office of Civil Rights Attorney Sharon Wyatt, appeared
18 to be providing misleading or false information about
19 the use of State funds only in the implementation of the
20 Low-Income Weatherization Program.

21 Also, that the program may in some instances
22 be leveraged with DOE and U.S. Department of Health and
23 Human Services Energy Program that benefit qualifying
24 low-income residents of California, and also regarding,
25 quote, "The relevant determinations do not fall within

1 the scope of Title VI of the Civil Rights Act of 1964."
2 And also, quote, "Low-income weatherization policies and
3 procedures fully comply with Title VI Civil Rights Act
4 of 1964, as well as applicable civil rights statutes,
5 regulations and Constitutional protections which
6 prohibit discrimination on the basis of race, color, or
7 national origin."

8 All of this I thought was misleading or false
9 and misled the federal agency that was in the process of
10 conducting Title VI investigations of complaints that I
11 had filed regarding your department and State agency and
12 your action in implementing discriminatory Low-Income
13 Weatherization Programs and I also believe
14 discriminatory programs with the U.S. Department of
15 Health and Human Services funding in terms of LIHEAP.

16 Finally, my research both online, in telephone
17 and direct conversations with the Department of
18 Community Services and Development staff, in reviewing
19 documents developed by the Department of Community
20 Services and Development included in presentations to
21 stakeholders of that Low-Income Weatherization Program,
22 and reviewing applicable State and federal civil rights
23 laws, regulations, and constitutional protection, the
24 Department of Community Services as a recipient of
25 federal assistance, at least in some of its

1 subrecipients of federal assistance involved in
2 implementing a Low-Income Weatherization Program and
3 LIHEAP program, appear to be violating requirements of
4 above-cited California and federal civil rights laws,
5 Title VI regulations, the Civil Rights Restoration Act
6 of 1987, and provisions in the California and U.S.
7 constitutions for equal protection.

8 I submitted substantial information to State
9 of California and Department of Community Services and
10 Development representatives, along with federal civil
11 rights agency representatives, documenting the intent of
12 some minority community coalition sponsors of some of
13 the recently enacted State of California environmental
14 laws and regulations to target benefits to low-income
15 minority communities of color to maximize benefits in
16 just 25 percent of California's 8,000 census tracts and
17 half of its 58 counties, such as program benefits and
18 jobs and training, which revealed a discriminatory
19 intent and actions that disparately treated and also
20 disparately impacted many California residents in 6,000
21 census tracts where non-minority residents resided --
22 where more non-minority residents resided.

23 I believe misleading or false information was
24 provided by the California Department of Community
25 Services and Development to the U.S. Department of

1 Energy and its Office of Civil Rights staff in their
2 review of my three Title VI complaints to the U.S.
3 Department of Energy, U.S. Department of Health and
4 Human Services, and the U.S. Department of Justice that
5 impeded an effective and thorough investigation by
6 federal agencies of the violations of Title VI and VII
7 of the Civil Rights Act of 1964, violations of the
8 Restoration Act of 1987, and the provisions of both
9 State and federal civil rights laws and constitutional
10 requirements for equal protection.

11 I further found that the California Department
12 of Community Services and Development for many years has
13 been a recipient of federal assistance for a series of
14 programs in its total operations which were subject to
15 Title VI and VII of the Civil Rights Act of 1964 and
16 also the Civil Rights Restoration Act of 1987 that
17 required your department, as a recipient of federal
18 assistance, and its providers and subrecipients of
19 federal assistance involved in the several Low-Income
20 Weatherization Program and several LIHEAP programs that
21 were involved and that were subject to Title VI
22 regulations of the Department of Energy and Health and
23 Human Services and that your department was violating
24 its assurances of compliance with Title VI of the Civil
25 Rights Act of 1964 as amended and covered by the Civil

1 Rights Restoration Act of 1987, which amended and
2 covered -- required that all of the programs and
3 activities of the California Department of Community
4 Services and Development, which are part of your total
5 operations, not discriminate and that they comply with
6 the detailed Title VI regulations of federal agencies.

7 I found in reviewing the information online
8 provided by the Department that it received substantial
9 federal funds supporting its administration of programs
10 in its work and with the subrecipients of federal
11 assistance, such as many providers of Low-Income
12 Weatherization Programs and LIHEAP weatherization
13 program benefit. I saw one report indicating in a
14 recent State plan that the department indicated 72 of
15 its employees were supported by a federal fund.

16 I also found both online in my research and
17 attending the June 2nd, 2016, stakeholders meeting in
18 Sacramento that the California Department of Community
19 Services and Development convened that CSD appeared to
20 be promoting through its implementation of the several
21 Low-Income Weatherization Programs its providers of
22 low-income program benefits to target jobs and training
23 benefits in a discriminatory manner that would violate
24 Title VI and VII of the Civil Rights Act of 1964 and the
25 Civil Rights Restoration Act of 1987 largely to provide

1 job and training co-benefits in just 25 percent of
2 California's 8,000 census tracts and half of California
3 counties rather than ensuring availability of the jobs
4 and training opportunities to all Californians or all
5 census tracts and counties in California as mandated by
6 the requirements in Title VII of the Civil Rights Act of
7 1964 and the provisions of the California Fair
8 Employment Housing Act and the California Unruh Civil
9 Rights Act.

10 I attended the California Department of
11 Community Services stakeholder meeting in Sacramento on
12 June 2nd regarding the discriminatory Low-Income
13 Weatherization Programs and also sent an e-mail on
14 May 31st to CSD's Director, Linne Stout, General Counsel
15 Ronn Kaiser, and Deputy Director Kathy Andry, in which I
16 summarized the continuing and growing violations
17 involved of the State of California and federal civil
18 rights laws, Title VI regulations and Title VII
19 requirements of the California Government Code section
20 11135(a), which mandates nondiscrimination in programs
21 that receive State assistance, and of the equal
22 protection requirements in the California Constitution.

23 I also had an opportunity when I attended the
24 June 2nd stakeholders meeting to ask questions of your
25 department administrators to gather further evidence

1 regarding the cited violations and to speak to many of
2 CSD's top administrators and some other subrecipients of
3 State and federal funds for the discriminatory
4 Low-Income Weatherization Programs, such as local
5 government agency representatives and nonprofit agency
6 representatives, about both the violations of the
7 existing Low-Income Weatherization Programs and the
8 proposed Phase 2 Low-Income Weatherization Programs that
9 were outlined in a slide presentation at the meeting.

10 I believe that the California Department of
11 Community Services and Development was recording the
12 June 2nd webinar presentation and also the comments and
13 questions from participants, and they should be
14 available if you wish to review them directly and
15 consider them in relation to gathering evidence that
16 documented the past and continuing violations of Title
17 VI and VII requirements, the plans for expanding these
18 Title VI violations in the future using a combination of
19 State of California and federal block grant funding.

20 There was direct and admission evidence of
21 Title VI violations I believe that came out in this
22 June 2nd meeting, which in reviewing the Department of
23 Energy's Title VI regulations found the 10 CFR 1040.1
24 violates most of the provisions of the
25 discrimination-prohibited items set forth in 10 CFR

1 1040.13 discriminations-prohibited section, such as
2 items (b)(1) through (6) and (c), which I pointed out to
3 representatives of the Department of Energy that were
4 supposed to be conducting investigations at the request
5 of the U.S. Department of Justice in response to my
6 multiple Title VI complaints made in 2015 regarding the
7 discriminatory weatherization programs in the California
8 Department of Community Services and Development, and of
9 some subrecipients receiving funding from the Department
10 of Energy and/or the U.S. Department of Health and Human
11 Services.

12 While California Department of Community
13 Services Director, Linne Stout, this year and the last
14 two years certified compliance with Title VI
15 requirements that would include the Department of
16 Energy's Title VI regulations, it was made clear in
17 PowerPoint slides, maps, and presentations of the
18 June 2nd meeting that California Department of Community
19 Services and Development was not abiding by the long
20 list of discriminatory actions which are prohibited in
21 the Department of Energy's Title VI regulations, such
22 as:

23 (b)(1) Denying services or benefits provided
24 under its Low-Income Weatherization Programs that
25 combine State funds leveraged with federal funds to

1 qualified low-income applicants that are located in
2 75 percent of California census tracts, a total of 6,007
3 census tracts and half of California counties,
4 including, Del Norte, Siskiyou, Modoc, Lassen, Shasta,
5 Trinity, Humboldt, Mendocino, Plumas, Sierra, Lake,
6 Glenn, Sutter, Colusa, Nevada, Placer, El Dorado,
7 Alpine, Amador, Calaveras, Tuolumne, Mono, Mariposa,
8 Inyo, San Luis Obispo, Sonoma, Napa, and Marin, while
9 targeting benefits primarily of those minority
10 communities of color in 1,993 census tracts with high
11 concentrations of ethnic minorities.

12 People in those excluded counties are counting
13 on you to do better to respect their civil rights and
14 their constitutional rights.

15 Let's look at (b)(2) in terms of Title VI
16 regulations that apply to your agency.

17 MS. BROWN: Mr. Piper.

18 MR. PIPER: Providing a service and benefits
19 in the Low-Income Weatherization Program that combine
20 State funds leveraged with federal funds that was
21 different and to those qualified low-income residents in
22 relation to single-family energy efficiency and solar PV
23 in 6,007 California census tracts than was afforded to
24 1,993 census tracts based on considerations of race,
25 color, and national origin and ancestry and that

1 maximized benefits to primarily serve minority
2 communities of color.

3 Another area: Segregating or separately
4 treating -- in (b)(3) -- individuals in 6,007 California
5 census tracts, or 75 percent of California census tracts
6 in relation to services and benefits available under the
7 Low-Income Weatherization Program that combine State
8 funds leveraged with federal funds from multiple
9 agencies.

10 (b)(4) Restricting otherwise qualified
11 low-income residents in 6,000 California census tracts
12 from the enjoyment of the advantages of privileges under
13 the Low-Income Weatherization Program enjoyed by
14 similarly situated low-income residents in 1,993 census
15 tracts based on consideration of race, color, national
16 origin or ancestry that maximized benefits and primarily
17 served minority communities of color where 84 percent of
18 the residents were ethnic minorities.

19 MS. BROWN: Mr. Piper, I don't want to
20 interrupt too much, but we only have until 10:30. This
21 packet will be made part of the record, so I just
22 wanted -- you can continue on if you like. I just want
23 to make sure you had time to offer anything additional
24 that might not be in this packet.

25 MR. PIPER: All right. I outlined in my

1 comments other areas in terms of the guidelines from the
2 Department of Energy in terms of what discrimination is
3 prohibited that I feel are violated by the programs of
4 the California Department of Community Services and
5 Development and in the services provided by many -- some
6 of your subrecipients.

7 I sent a memorandum on May 31st to the
8 California Department of Community Services Director
9 Stout, Assistant Director Andrea, and General Counsel
10 Kaiser that noted the department's past actions in
11 restricting a hundred percent of the benefits of CSD's
12 two Low-Income Weatherization Programs to just serve
13 qualified low-income residents in 25 percent of
14 California census tracts and only half of California's
15 counties, targeting to the maximum extent possible
16 benefits to serve minority communities of color and
17 based on considerations of race, color, national origin
18 and ancestry. And I pointed out the different State and
19 federal civil rights laws that were violated by these
20 actions.

21 I believe these violate the Civil Rights
22 Restoration Act of 1964 and that their actions of both
23 the California Department of Community Services and also
24 of specific subrecipients or some of the providers that
25 CSD is using essentially to discriminate targeting

1 minority communities of color to the max for important
2 benefits.

3 I believe there is systemic discrimination
4 involving State of California agencies, as well as many
5 actions of federal agencies that are continuing to
6 provide federal assistance to a series of jointly funded
7 programs that appear to allow the State of California
8 recipients of federal assistance, such as California
9 Department of Community Services and Development and the
10 local government agency providers or recipients of
11 federal funding, to discriminate in violation of the
12 cited state and federal laws, regulations, and
13 constitutional requirements.

14 I have a series of recommendations that I am
15 making to end the systemic discrimination by involving
16 State of California and federal agencies with respect to
17 the utilization of federal funds described above that
18 are involved in the discriminatory implementation of the
19 multiple federally assisted programs of the State of
20 California and local agencies such as the LIHEAP
21 Weatherization and the Low-Income Weatherization
22 Program.

23 I believe that the Draft 2017 LIHEAP State
24 Plan should be rescinded by the Department of Community
25 Services and Development and the State of California,

1 along with the CSD's final guidelines for the
2 discriminatory Low-Income Weatherization Program for --
3 Low-Income Weatherization Program for single- and and
4 small multi-family weatherization and small family solar
5 PV program and the large Multi-Program Guidelines, and
6 revised to eliminate all discriminatory provisions that
7 violate State and federal civil rights laws, including
8 discrimination in employment and training, and
9 provisions of the California Constitution prohibiting
10 preferential treatment of public employment and
11 contracting and mandating equal protection, along with
12 the U.S. Constitution requirement for equal protection.

13 Any revised plan should ensure that the energy
14 and weatherization program and benefit is available on a
15 nondiscriminatory basis to all qualified low-income
16 residents in all 8,000 California census tracts and all
17 58 California counties.

18 The California 2016 and 2017 CSCBG State Plan
19 Application should also be rescinded and revised to
20 ensure full compliance with the requirements of State
21 and federal civil rights laws to ensure the benefits of
22 State and federally assisted programs for energy and
23 weatherization are made available in all 8,000
24 California census tracts and counties consistent with
25 the requirements of State and federal law.

1 Further, the discriminatory guidelines issued
2 by the California Air Resources Board of California for
3 State agencies administering California Climate
4 Investments should be promptly rescinded and replaced
5 with guidelines fully consistent with ensuring
6 compliance with legal requirements that I've outlined in
7 regards to the State and federal laws, regulations, and
8 constitutional requirements.

9 I also feel that there's a need for these to
10 be rescinded, these discriminatory guidelines of the Air
11 Resources Board, and any replacements be fully vetted
12 with the California Department of Justice, California
13 Department of Fair Employment and Housing, U.S. Equal
14 Employment Opportunity Community Commission, the U.S.
15 Department of Justice and its Civil Rights Division, and
16 a State or federal court that will oversee compliance
17 with a consent decree to ensure nondiscrimination for
18 programs receiving funding under the new guidelines that
19 are developed.

20 I believe that also at least 250 to
21 300 million dollars in funding should be set aside and
22 allocated in a nondiscriminatory manner in the next
23 three years by the State of California, the California
24 Department of Community Services and Development, and
25 the federal government for victims of discrimination

1 among the low-income population in the over 6,000
2 California census tracts, and 58 counties whose rights
3 to participate in for the benefits of the Low-Income
4 Weatherization Programs or the LIHEAP program during the
5 period from 2014 to 2016, including provisions for
6 making program benefits available in a compensatory
7 manner in relation to employment and training that were
8 previously targeted in a restricted manner and limited
9 primarily to low-income residents in just 2,000
10 California census tracts and half of the California
11 counties in a discriminatory manner that focused on
12 preferential treatment for low-income minority
13 communities of color.

14 Another item, I feel that the State of
15 California and -- the ones that have the State of
16 California and the Department of Community Services and
17 Development subjected to compliance reviews by the
18 California Department of Fair Employment and Housing,
19 U.S. Equal Opportunity Commission, California Department
20 of Justice, and the U.S. Department of Justice, ensure
21 that the California Department of Community Services and
22 Development complies fully in its total operations and
23 programs and activities with the nondiscrimination
24 requirements contained in the State and federal civil
25 rights, laws, and regulations, Civil Rights Act of 1987,

1 and the requirements of the California Constitution
2 prohibiting preferential treatment in public employment
3 and contracting.

4 Further, require that the State and California
5 Community Services and Development staff and
6 administrators and all recipients of federal assistance
7 that have received federal assistance under the
8 Low-Income Weatherization and LIHEAP programs, including
9 CSD, including your providers in the Low-Income
10 Weatherization LIHEAP program, now and in the next five
11 years, that they receive comprehensive training
12 regarding the nondiscrimination requirements of State
13 and federal civil rights laws, including State and
14 federal regulations in detailed Title VI regulations of
15 federal agencies.

16 Also, there should be a requirement that the
17 State of California provide similar and appropriate
18 training to the staff involved in State agencies with
19 civil rights responsibilities, including legal staff
20 members regarding the requirements of these various
21 State and federal laws and regulations.

22 I also feel that -- should require information
23 and training be provided to the State of California and
24 the California legislators regarding the
25 nondiscrimination requirements of State and federal

1 civil rights laws, the California United States
2 constitutional requirements for equal protection, and
3 codify definitions of "environmental justice" contained
4 in the Government Code and identified violations of both
5 State and federal civil rights laws and Title VI and VII
6 regulations, the Unruh Civil Rights Act, and the
7 constitutional requirements that I've summarized today.

8 To require a review by State and federal and
9 local officials and Civil Rights Division administrative
10 attorneys in the Justice Department at the State and
11 federal level and by the California Department of Fair
12 Employment and Housing administrators and attorneys, of
13 the constitutionality and discriminatory features of the
14 State of California environmental laws enacted in the
15 last eight years appear to conflict with the
16 nondiscrimination requirements of long-standing State of
17 California laws, such as the Unruh Civil Rights Act and
18 Fair Employment Housing Act, Government Code section
19 11135(a), Title VI and VII of the Civil Rights Act of
20 1964, the Civil Rights Restoration Act of 1987, equal
21 protection clauses in the Constitution, California
22 Resources Code Section 7110, and the codified definition
23 of "environmental justice."

24 Government agencies are not supposed to
25 discriminate, and State legislators are not supposed to

1 be enacting laws that conflict with requirements for
2 nondiscrimination in California civil rights laws or
3 federal civil rights laws in Title VI and VII
4 regulations. The review should lead to action to
5 address unconstitutional provisions and State of
6 California laws such as Senate Bill 532 and more
7 recently proposed Assembly Bill 1550 that would further
8 perpetuate violations of State and federal civil rights
9 laws and constitutional requirements for equal
10 protection or prohibiting preferential treatment in
11 State contracting and employment.

12 There also should be a comprehensive review
13 conducted of the discriminatory implementation of State
14 of California and federal programs and activities and
15 actions in implementing and promoting so-called
16 "environmental justice" programs appear to violate the
17 codified definition of "environmental justice" of the
18 State of California and of the U.S. Environmental
19 Protection Agency which have resulted from violations of
20 federalism Executive Orders involving multiple federal
21 agencies that have a significant impact on State and
22 local agencies, undercutting enforcement of State and
23 federal civil rights laws, the enforcement of Title VI
24 regulations of federal agencies and their proper
25 enforcement, as well as the constitutional rights of

1 equal protection of many residents in California and
2 other states around the country.

3 Some of the discriminatory programs and
4 actions I have found in my research are not fair to all
5 races, to all cultures and income as per the codified
6 definition of "environmental justice" and have resulted
7 in growing systemic discriminatory implementation of
8 so-called environmental justice programs in California
9 with respect to the development, adoption,
10 implementation, enforcement of laws, regulations, and
11 policies.

12 We're undercutting proper implementation of
13 environmental justice programs in California, and if
14 this doesn't change, it's going to have kind of a very
15 tarnished meaning, and it could significantly impact the
16 proper and codified definition of "environmental
17 justice."

18 I documented in my research in multiple files
19 Title VI complaints and the Unruh Civil Rights Act
20 complaint filed in the last few years a series of
21 actions by a number of major public interest law firms
22 working with minority community partners appeared to
23 manipulate the passage of discriminatory California
24 environmental laws and regulations, promoting and
25 maximizing benefits for low-income minority communities

1 of color which denied access to important benefits to
2 millions of non-minority residents located in 75 percent
3 of California census tracts in violation of requirements
4 of State and federal civil rights laws and equal
5 protection clauses in the California and U.S.
6 Constitution.

7 I'm not just concerned about non-minority
8 Hispanics. There are also millions and millions -- many
9 millions of minorities in those 6,000 census tracts and
10 those half of California counties that belong with
11 approximately 14 million non-Hispanic Caucasian whose
12 rights and important benefits are being denied. And
13 these are benefits that impact the air you breathe, your
14 health, the trees you plant, the safety of your home,
15 potential fire risk in your community. And, again,
16 government is not supposed to discriminate, but but I
17 found that government is discriminating and it's aiding
18 and abetting in violation of the State and federal laws
19 and important Title VI regulations -- VI and VII of the
20 federal government.

21 These actions are promoting systemic
22 discrimination and environmental racism, and
23 environmental justice is codified in California law.

24 Government agencies at all levels here in
25 California around the country need to get back to

1 ensuring that their programs, activities and actions do
2 not violate the federalism Executive Order requirements
3 and the civil rights and constitutional rights of many
4 millions of Americans across the country.

5 This discrimination is being actively promoted
6 by many federal agencies, up to the Justice Department
7 and the White House, violating the federalism Executive
8 Order and undercutting enforcement of Title VI and VII
9 and violating the constitutional rights of millions of
10 Americans.

11 Is this what we want to teach our government
12 agencies, our nonprofit agencies -- how to discriminate?
13 Will you only be able to live in 2,000 of California's
14 8,000 census tracts, or half of California counties, to
15 receive the benefits that you're entitled to under State
16 and federal laws?

17 Congress intended in passing Title VI to
18 ensure the permanence of the nondiscrimination policy
19 and the federal programs and dollars were not used to
20 subsidize and print or promote discrimination of the
21 federal, state or local programs or actions of
22 recipients of those public and private subrecipients
23 receiving federal funding and assistance.

24 The guidelines on Title VI enforcement issued
25 by the Justice Department, to quote the late Senator

1 Kennedy, that essentially we shouldn't be taking tax
2 dollars from everyone and using them to promote or
3 entrench discrimination or to deny benefits to people
4 that are State law and federal law -- that are entitled
5 to those benefits and the right to participate in those,
6 be it State or federally assisted programs, and that it
7 was just as invidious to use federal dollars to violate
8 the civil rights and constitutional rights of Americans.

9 That's what's at stake here. The California
10 Department of Community Services and Development
11 involves State agencies, and we need to call on elected
12 officials and the State Attorney General, U.S. Attorney
13 General, and the Justice Department to enforce our civil
14 rights laws and protect our constitutional rights which
15 are now being egregiously violated.

16 Government is not supposed to discriminate. I
17 spent my career with the State Civil Rights Agency
18 trying to ensure nondiscrimination, and I have been
19 appalled at the kind of secret policies and the
20 duplicity or the misrepresentations in terms of
21 compliance with State and federal civil rights laws when
22 policies and programs that are funded by State and
23 federal agencies violate the civil rights and
24 constitutional rights of millions of Californians of all
25 races and of all incomes. And we need to go back to

1 ensuring compliance.

2 And I spent my last two years trying to find
3 out the extent of the discrimination. I shared with you
4 today some of the things that I've learned, and I
5 believe there's been a violation of the public trust, an
6 egregious violation of the public trust by State and
7 federal agencies, and that we need to get back to
8 ensuring nondiscrimination; and we need for our children
9 and our grandchildren to be protecting their civil
10 rights and their constitutional rights and not engaging
11 in actions and developing and implementing
12 discriminatory programs but to serve all of California.
13 And particularly those that are poor that CSD is
14 supposed to be serving with State and federal dollars.
15 That's what you're paid for.

16 When I worked for the State I felt -- for
17 example, I worked on investigating harassment cases or
18 discrimination cases. That was the most important work
19 that I did. So in terms of -- you're the poverty
20 agency, and you need to serve all Californians on a
21 nondiscriminatory basis, and you need to get your facts
22 straight and you need to comply with these legal
23 obligations that I've outlined.

24 I thank you for listening. Thank you.

25 HEARING OFFICER RAMOS: Thank you.

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Is there any additional testimony to be heard today?

It appears that there is no further comment. The public hearing is considered closed. CSD will receive written testimony until 5:00 p.m. today, August 15. The time is now 10:28.

Thank you.

(The public hearing was adjourned at 10:29 a.m.)

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REPORTER'S CERTIFICATE

I, Jacqueline Toliver, a Certified Shorthand Reporter in and for the State of California, do hereby certify:

That the foregoing proceedings were reported by me stenographically and later transcribed into typewritten form under my direction; that the foregoing is a true record of the proceedings taken at that time.

IN WITNESS WHEREOF, I have subscribed my name this 16th day of August 2016.

Jacqueline Toliver

Jacqueline Toliver, CSR No. 4808