

THE BROOKINGS INSTITUTION

WHITE HOUSE PARTNERSHIPS WITH FAITH-BASED
ORGANIZATIONS: WHAT SHOULD THE NEW ADMINISTRATION DO?

Washington, D.C.

Friday, December 5, 2008

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

PARTICIPANTS:

Introduction:

[WILLIAM A. GALSTON](#)

Senior Fellow, [Governance Studies](#)

Featured Speakers:

[E.J. DIONNE, JR.](#)

Senior Fellow, [Governance Studies](#)

MELISSA ROGERS

Director of the Center for Religion and Public
Affairs, Wake Forest University Divinity School

Panelists:

STANLEY CARLSON-THIES

Center for Public Justice and The Institutional
Religious Freedom Alliance

DAVID SAPERSTEIN

Director, Religious Action Center of Reform Judaism

* * * * *

P R O C E E D I N G S

MR. GALSTON: Well, people are still coming in, but in deference to everyone's busy schedules, we thought it was best to get started now. My name is Bill Galston. I'm a Senior Fellow in Government Studies at Brookings and a happy colleague of E.J. and long time friend -- not only of E.J., but of Melissa and coworker as well and likewise for the other panelists -- David Saperstein and Stanley Carlson-Thies. We're gathered as you know to celebrate -- and I think that is the right verb -- the publication of a splendid and brave new report Serving People in Need, Safeguarding Religious Freedom. It is a valiant effort to pour oil on, as you know, extremely troubled waters, and if its advice is heeded, it may go some considerable distance towards doing just that. I've been asked to serve as moderator and make some introductory remarks and when I asked E.J. what the tenor of the introductory remarks should be, he said

free standing. That is to say, don't just introduce. I said okay. And as I read the report, I found my thoughts wandering in all sorts of surprising directions. As some of you know -- although I don't work full time in this area -- I have been seized a bit from time to time. I was in the Clinton White House. I was an ardent proponent of the Religious Freedom Restoration Act and worked as hard as I could for that. I was an early vociferous critic of the Smith Decision. I've taken much heat from my colleagues -- both in academia and the Democratic Party -- for spending 20 years trying to go pry open the minds of the closed just to the importance of faith in public life. And having said that, I was to some extent surprised by my reaction to this report and let me just spend a few minutes sharing these vagrant, errant thoughts with you. You know, as you all know, recent decades have witnessed the increasing polarization of American politics. And I think it's fair to say that the president-elect's national career was launched by his 2004 convention speech, which

among other things, was an ardent protest against that polarization in the name of a single United States of America. And as you know, two years later he gave a fabulous speech on the role of faith and public life and then subsequently during his presidential campaign pledged to continue, albeit with it some modifications, President Bush's Faith Based Initiative. This would be, it appears, the perfect place to begin redeeming the promise to change the tone of our politics. As the authors of this report rightly point out, collaboration between governmental institutions and faith-based organizations started long before the Bush Administration -- decades before, if not longer. There was, of course, some substantial agreement on at least the principle of charitable choice during the mid-1990s. And then at the onset of the 1999 presidential campaign, the two candidates -- Albert Gore, Jr. and George W. Bush -- delivered very similar public speeches on the relationship between government and faith-based organizations. And yet this area has been and continues to be the source of

seemingly endless controversy which the authors of this report hope to diffuse. In one of the most heartfelt sentences of the report, we find the following. "Both of us" -- that is E.J. and Melissa -- "find it strange that a discussion focused around the word 'faith' so frequently devolves into an argument about money." True enough. True enough, however, I would point out a couple of things in mitigation of the strangeness -- or at least partial mitigation. You know, first of all, the assertion my dollars for my faith is the quintessence of free exercise. The assertion your dollars for my faith is something else entirely. I would remind you all that what is perhaps the most important document about the relationship between government and religion in the history of the American republic -- namely Madison and Jefferson's Memorial and Remonstrance -- was sparked by a money question. Right? And so -- and so there -- it's not so strange after all, you know, that this nexus evokes both low politics and high principle. The idea of -- the idea of faith-based hiring with -- with, you know,

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

a faith organization's owns funds is -- while not entirely uncontroversial, not especially controversial and it has certainly been sanctified by the Supreme Court -- but it becomes a flash point in the context of other people's money -- a.k.a. public funds -- for that purpose which gave rise early in the discussion about President Bush's Faith Based Initiative to a spirited debate among conservatives as to whether grants or rather vouchers would be a better way to go. And I remember many conservatives arguing at the time that vouchers would be better for all sorts of reasons, including the fact that the constitutional or political problems that we're now wrestling with might be evaded if we had gone that route. As the authors of this report wisely remind us, there are risks in this relationship for religious organizations -- risks of dependence, of interference and of mission corruption. The report, it seems to me, you know, reflects over and over again on the classic formulation that the separation of church and state is at least as much for the sake of the church as for the

sake of the state. Now, the -- so to continue on this reflection between faith and money, the nub of the issue -- the reason that we're here having this discussion seems to me -- is the question of public funding. And I believe that inherent in the idea of public funding is the idea of public oversight, number one, and number two, subjection to a wide range -- how wide we can argue -- but a wide range of public norms. The authors of this report rightly place the faith-based initiative in a larger context. The growth of what government scholar Don Kettl calls government by proxy. Now what is government by proxy? I understand it this way -- the use of public dollars to promote public purposes, but outside the framework of public institutions and public employment. As we've learned painfully and recently, this can pose grave problems of public accountability. Take a look at the burgeoning -- the burgeoning controversies over public contracts, for example, or the question of what kind of entity Blackwater is and where does it stand in this continuum of public and -- public and private.

That's -- that issue almost torpedoed the just ratified Status-of-Forces Agreement between the United States and -- United States and Iraq. As the authors of the report point out, the initial impetus for the development of charitable choice -- at least in the minds of Senator Ashcroft and his staffers -- the impetus was, and I quote, the emphasis was on expanding opportunities for religious organizations to provide government funded social services while reducing the rules and restrictions that typically followed government aid -- close quote. I think that's -- I think that's a fair statement, although some may want to argue with it. And I would argue -- just to pour gasoline on the fire, rather than oil on troubled waters -- I would argue, I would argue that it is hard to have it both ways. If you accept public dollars -- and the authors of the report are very clear on this point -- you accept in principle the evaluation of the effectiveness of the programs that receive the public dollars. You accept the standard of what works and what works defined in the terms --

defined in secular terms and not in spiritual terms. And this principle applies to faith-based institutions, abstinence education and marriage promotion projects just as much as Head Start and all of the other secular poverty programs that scholars have pilloried for decades. And this is a point that the president-elect has emphasized himself. As the authors of this report also emphasize, to some extent the acceptance of public dollars brings civil society into the public and the civic sphere. And I think that is a critical movement across a very -- a very important line. Now, for quite some time, there has been a -- I will loosely call it -- liberal argument that conservatives have caricatured, but not entirely unfairly. And the liberal argument goes something like this. You people of faith are perfectly free to participate on equal terms in American public life as long as you check everything that's distinctive about you at the threshold of the public sphere. And speak an allegedly neutral and, in fact, thoroughly secular public language. Well, I have come to the conclusion

that there is a -- there is a liberal version of that charge directed to conservatives which is a caricature, but which has some element of truth as well. And it goes like this. That -- you know -- the position that some supporters of faith-based initiatives takes is that we will invoke the equal protection clause, participate in equal terms in public programs. We will wield the free exercise clause to exempt ourselves from public norms and then scream bloody murder when someone invokes the establishment clause to stop us. There's a problem with that position I think. In the end -- in the end, I can't avoid the conclusion that the founders were right after all. Religion is different. It is distinctive. And religion, therefore, entails both special liberties and special restrictions. Government can establish secular beliefs, for example, that human activity contributes to global warming and it can deploy public resources in support of those secular beliefs. It cannot do the same for religious beliefs. And I conclude with the wisdom of I think

the wisest man who ever lived, namely Aristotle. Justice means treating likes alike, not unlikes alike. And our task then is somehow to agree on the distinctiveness of religion. What makes religion distinctive and how that distinctiveness should be woven into the fabric of public institutions and public policies? It is much easier for me to state that problem than for the authors of this report to wrestle with it -- which they have done manfully and womanfully -- and as they were created. And with that I turn to Brother Dionne.

MR. DIONNE: If nothing else, you got manfully and womanfully out of this. That's a wonderful thing. I want to thank Bill for his thoughtful comments. Bill is always thoughtful and I also thank him for being free standing. I wouldn't want my Galston any other way. And I would have been disappointed if you hadn't quoted Aristotle. So, thank you so much, Bill Galston. There is such an extraordinary range of people in this room and organizations represented, including a lot of old

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

friends. Thank you all for being here. It suggests how much energy there is still around the topic we are discussing today. In our report -- our friend John DiIulio, who wanted to be with us today, but was kept away by an important family matter -- we quote him quipping from the letter -- paraphrasing the letter of James -- faith-based without works is dead. And there are a lot of good works represented in this room today. I particularly want to thank my friend Jim Wallis for joining us. I knew he had a very difficult schedule. Jim cares about these questions about as much as anyone in our country or maybe in the universe and I am so grateful that he could join us today. And I want to thank Melissa. She is a spectacular friend and partner on this project and it is a sign of the depth of our friendship that we are still friends after working through very nearly every single sentence in this report. Melissa's name is first on our report because I insisted on it as a matter of justice. And by the way and typically for her, she wanted the names the other way around on the cover.

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

We both put in a lot of time and labor to produce this report, but her work in the month or so before the election when I was otherwise detained, was absolutely critical and, of course, between the two of us, she is the student of the law, which is a rather important topic in this report as you will note. Enormous thanks to Seymour Weingarten, an indispensable friend and supporter of this project and a very wise man who went along on this journey with us at every step. God bless, if I may invoke the Almighty, Dominique Melissinos -- who did more work on this than either of us had a right to expect. If she were unionized, we'd be before the NLRB. So, bless you, Dominique. And great thanks to Bethany Hase , Gladys Arrisueno, Darrell West and Bill Leonard. And thank you David and Stanley for being here today. Two quick housekeeping issues. There are pages and pages and pages of source notes to this report which we decided to keep out of the report. We have copies of the notes here for those of you who love notes. They are actually a source list. I happen to like notes. But

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

they will also be available online at a website that's mentioned in the report. And Melissa offers further legal analysis, which is referred to at various points in the report which will also be available online.

One of the great things about this is I got to take one of Melissa's courses while I was doing this report with her and it's a great outline of a whole series of church-state issues that lie behind the report. The report presents a series of recommendations -- 16 in all and you'll be very glad I'm not going to go through them all -- for how the new administration should move forward on government partnerships with faith-based organizations. We started working on this report before we knew the outcome of the election. As we note, we were going to put this out one way or the other. We believe -- we wrote the report because both of us believe that faith-based and secular community organizations are central to the work of charity and justice. We believe that discussion of this question should not come down to whether one was for or against President Bush. And we underscore that faith-based

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

partnerships, as Bill mentioned, long predated the current administration and will long outlast the next one. President-elect Obama should not view this moment simply as an opportunity to pass judgment on a signature item of the Bush presidency, and we're glad he's made clear that he believes that government should partner with grass roots groups -- both faith-based and secular, as he put it -- because the challenges facing us -- again quoting the President-elect -- are simply too big for government to solve alone. We wrote this report because we believe these partnerships should be -- I know this is an odd thought -- a unifying force in our public life and not a source of division. Progressives have always believed in empowerment and in the importance of grass roots groups. Our faith communities have so often served as a source of bottom-up power in our society, and as an inspiration for so much practical good work. So we would ask liberals and progressives to see these partnerships as very much part of their own -- if I may say so -- our own tradition. But those who worry

about the impact of these partnerships on religious liberty and on religion itself should not be written off or condemned as enemies of religion. As Bill Galston -- himself no enemy of religion -- just demonstrated in his remarks. Government cannot promote religion, let alone a single faith. Conversion is the task of the believer, not the task of government. We think that common ground can be found if each side in the arguments over faith-based partnerships would acknowledge the good will of the other -- that's really hard -- and if each tried harder to understand the core concerns of their opponents. That's also hard. As we note in the report, some who support government partnerships with faith-based groups need to be more attentive to the legitimate concerns of those who believe there are risks to religious liberty and religion in these arrangements. Some who are concerned with church-state separation and religious liberty should be more mindful of the long and fruitful history of government partnerships with faith-based groups in pursuit of

justice and compassion. You could say that this report is rooted in three core ideas. It -- let us continue with faith-based partnerships. Let us be more careful about and attentive to church-state boundaries and religious liberty concerns. And let us make sure that grants given out under this program are given out in a way that is as fair and open as possible and as above reproach as possible. There's a kind of balance in our recommendations, which I'm quickly going to group together here. Or at least we hope there's a balance. Recommendation 1 calls for welcoming these partnerships. Recommendation 5 calls for protecting the identity of religious groups and recommendation 13 calls for new incentives for charitable giving. Recommendation 12 calls attention to nonfinancial partnerships between faith-based groups and government. Too little attention is paid to these nonfinancial partnerships and I'm grateful Bill quoted my favorite line in the whole report. He's right about the heartfelt thing that while it's inevitable, arguments about faith shouldn't always be

arguments about money. At the same time, legitimate concerns about these partnerships must be answered. Recommendations 4 and 6 call for much greater clarity in the regulations and the guidance given faith-based groups about the religious activities the government simply cannot fund. Recommendation 7 calls for strengthening the protection of the religious liberty rights of beneficiaries. That's a topic that we could talk about all day. Recommendation 8 calls for better though nonintrusive monitoring of compliance with church-state safeguards. And recommendation 15 calls for better outreach and training on all of these issues. We specifically urge in recommendation 10 that the government not give direct aid to houses of worship -- churches, synagogues and mosques. But that same recommendation calls for vastly simplifying the process through which congregations can form separate 501(c)(3) organizations to receive such funds. We suggest this not because we disrespect the work congregations do, but on the contrary -- because we respect their religious liberty rights. Government

must necessarily demand accountability for taxpayer funds and the one way to keep government auditors out of the books of our houses of worship is for them to separate arms to receive government money. We make a number of criticisms to the Bush Administration policies on these partnerships, though we are not uniformly critical, but we are especially concerned about charges that the process of financing these groups sometimes seemed tilted toward entities with political leanings sympathetic to those of the administration so that in recommendation 11 we call for more accountability and peer review panels that are not dominated by advocates of a particular faith, theology or political ideology and members of these panels should have genuine expertise in the program areas being funded. By far, our longest recommendation relates to the issue that has caused the greatest contention and division and Bill alluded to this -- the question of whether faith-based groups may make employment decisions on the basis of religion when it comes to government funded jobs. Even the

words used by the two sides of this debate are contested. Those who favor prohibiting religious providers from making religion-based decisions in these jobs, talk about religious discrimination. Those who favor policies that would allow religious providers to prefer job applicants within their own denomination or tradition, speak of permitting religious employers to take religion into account in government-funded jobs. When you can't even agree on how to describe the problem, you know there is a deep disagreement. Melissa and I agree -- and in some ways this may be our most important recommendation on this issue -- we agree that too little is known about what impact a ban on religious discrimination would actually have on faith-based programs and we call for a comprehensive study that could provide a basis for a sound and constitutionally-grounded resolution to this controversy. We really want to know what would different approaches to this -- what effect would that have on actual providers? And we also agreed that existing contracts with groups that employ religious

preferences should not be disrupted. We part slightly on the question of what should be done while this study is conducted. My own view is that something like current policy should be maintained until the study is completed. Religious groups should be given some leeway in this interval. Melissa will explain her own view. I don't want to put words in her mouth. My own worry is that too rigid a regime of enforcement might disrupt longstanding partnerships that have worked well, but in principle I do agree with Melissa that there is something problematic about taxpayer funds supporting jobs that certain taxpayers cannot obtain simply because of their religious leanings or affiliations or lack thereof. Speaking for myself, I'd like to seek if there might be some way for everyone to give at least a little on this question. If religious charities receive government funds as Bill suggested, they do take on certain obligations. Might they not find ways to preserve their identities by hiring co-religionists for certain leadership positions, but opening up most of their government-

funded posts to others. And might not those who oppose any job discrimination, grant these groups certain limited by important leeway for these leadership jobs. Now I am not certain this is a workable solution, which is why I think the study is essential. But I truly think it would be a shame if the entire discussion of these partnerships devolved into a kind of culture war over this single question. There is too much work to be done, too much hurt to be healed, too much suffering to be relieved. Just a brief word on what we say about the structure of the White House office -- how the next White House should do this. We say less on this question than on many others because both of us believe that the structure of the White House office (a) is almost certainly not the most important question at issue here, and (b) is very much particular to the new president. But we do suggest is that the chairman of the -- the council that President-elect Obama has proposed should be a high position within the White House staff and the kind of person you want in that job is someone who

really has broad respect not only across our religious denominations, but also with those who may not be religious outside the faith community. If this initiative is to work, there has to be broad credibility with a whole lot of groups and in a funny way, essentially, it would be somebody that just about everyone in this room from the very diverse perspectives represented here would say this is a wise choice. We also hope that the president-elect's council is a diverse group. We debate about whether saying this post should have cabinet rank and the problem with that is that everybody who cares about a topic says this post should have cabinet rank and so we weren't quite sure what that would mean. I'm actually not hostile at all to that idea, but it's not something we felt we wanted to declare on for that reason. And lastly, I've got to say this. However much we admire the work of faith-based groups, support for them simply cannot become an excuse to cut government's commitment to a strong safety net, a robust system of social insurance and other essential

programs. There was a letter that Jim Wallis organized a few years back and I love that they quoted the line you cannot make bricks without straw. The good people in these groups -- the good people represented in this room -- simply cannot solve all of our problems all by themselves. I hope the new president will encourage us to recognize that people of good will can disagree on many questions related to politics, theology and belief itself and still find ways to work together on behalf of those in need. They would thereby strengthen the bonds of community and mutual responsibility. On this issue, we believe that the effort to find common ground will genuinely advance the common good and again I want to thank my friend, Melissa, for joining in this effort. Bless you, Melissa.

MS. ROGERS: Thank you and I want to say Amen to E.J.'s words particularly on strengthening the social safety net as we move forward. I want to thank everyone for being here today. It's a great pleasure to be with you. So many of you I've had the pleasure

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

of working with over the years, and I want to thank you for that privilege. I also want to just say a word about -- working with E.J. as you know is always a wonderful intellectual experience. It's also a lot of fun. We had a -- we had a great time working on this. Difficult times struggling over language, but also a lot of great times. And I want to just note that without E.J.'s work on the partnerships between government and religious organizations, we might not have been able to write much of this history section, because long before these partnerships were recognized as a national issue, E.J. was organizing conferences and writing books about these partnerships. And so he, in the process, was able to build a terrific record of the -- if you will -- pre-charitable choice, pre-faith-based initiative partnerships and that is such an important part of this puzzle. So without his work, we really wouldn't I don't think have been able to write the history portion -- or much of it. So I thank him for his insight then and his insight now. I also too want to thank Seymour Weingarten for his

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

support and his good counsel throughout our project. We could not have done this without him and I want to thank him. Also thanks to Bill Galston, David Saperstein and Stanley Carlson-Thies -- were three of the people with whom we consulted widely in working on this project. Not to say that they agree with us, but we are grateful for their thoughts and their input. I want to start with a word about partnerships -- something E.J. mentioned -- but I want to place a little more emphasis on it. When we think of government partnerships with religious social service providers, our mind almost immediately goes to the question of money and financial partnerships. But -- and we believe that the government should welcome those partnerships and I'll have more to say about them in a minute -- but it's my hope that the next president will do much more to highlight and promote nonfinancial partnerships between the government and religious institutions which also have a long history in our country. As the name suggests, nonfinancial partnerships are partnerships in which no money passes

from the government to the religious entity, but yet they work together for a common cause. Now these include some partnerships between congregations and public schools. During the Clinton Administration, for example, Secretary of Education Richard Riley was very intent on working in this area and I know many of you worked on these partnerships to help religious organizations come into the process and to help tutor students and organize afterschool programs with other religious -- other religious and nonreligious communities. These partnerships have been wildly successful in many cases and vital to the building of public schools, but they aren't given their due frequently in these conversations and they should be. In fact, Secretary Riley developed some guidance for these nonfinancial partnerships with religious and other communities and public schools, and one of our recommendations is that the next administration should revisit that guidance, update it and even consider if it could be adapted for other federal agencies and other situations when they could form nonfinancial

partnerships with religious organizations. These organizations -- these kind of partnerships, because they involve -- don't involve funds, involve far less constitutional issues and so we definitely want to encourage a focus on those partnerships as well as the financial partnerships. As to the financial partnerships between government and religion, we believe that they should be retained, but also reformed. And, so I want to just work through a few things about the retention of principles and also some things that I believe need to be reformed. And we believe need to be reformed. We believe that government should continue to welcome religious organizations to partner with government. When organizations want to meet needs and are willing to follow the rules that come along with government funds, the government should invite them and include them in the project. Just as various other nongovernmental organizations do, religious groups have particular strengths in reaching those in need and those strengths should be recognized and

appreciated. Religious organizations are not categorically better than secular providers and the reverse is also unproven. What we need to do instead of giving a presumption, for example, to religious groups, is to not put our thumb on the scale -- whether it's a religious groups or a secular group -- and to look at their effectiveness and their ability to operate within the values of the system of government funding. And if they can do that kind of thing, then they should get the grant whether they are religious or nonreligious. Now here -- let me just mention, emphasize here that this report is advice to the government about the posture and policies it should adopt. It is also important to say that religious groups should think about these matters carefully. Saying that the government should welcome these partnerships is not the same thing as saying that religious providers should enter into them. There are risks for religious groups in working with government and those ought to be clearly recognized and confronted. So, those risks include, as Bill

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

mentioned, being co-opted by the government, becoming dependent on the government. And religious groups ought to consider those risks very carefully. So I just wanted to point that out about the nature of this report is advice to government and there are other concerns that would be in another report that would be more geared toward the religious community per se. Other things that should be retained moving forward about these partnerships -- religious groups should certainly be able to have a religious name, to post religious symbols in their building and to have explicitly religious mission statements. Religious providers that offer programs that are funded by direct aid should also be able to offer privately funded religious activities -- as long as those activities are clearly separated from the government funded activity and purely voluntarily for social service beneficiaries. The rules that follow government funds should only control the government-funded program, not activities outside the government-funded program. And this is an area about which more

and better guidance is needed. In the report, we criticize the Bush Administration for not doing a better job of giving clear and practical guidance to providers about the separation between privately funded religious activities and activities funded by direct government funds. We need to do that for providers to help them to do the right thing and certainly to avoid lawsuits. So this, I think, should be a very high priority for the next administration. So what are some other things that need to be reformed? We need more clarity about the restrictions regarding direct funds, what they can be used for. Direct funds should not subsidize explicitly religious activities and providers need very clear guidance on that -- again, for many different reasons including avoiding lawsuits. We need to do a better job of protecting beneficiary's religious liberty rights including always giving them notice of their right to an alternative provider -- one that is not objectionable to them based on the religious character of the provider that's currently assisting them. We

need to do better monitoring of government funds and that monitoring has to take care to ensure that direct government aid isn't being used to promote religion and at the same time avoid excessive church and state -- church-state entanglement. Let me say a word about the employment issue. Religious organizations that do not receive government funds are and should be entirely free to discriminate on the basis of religion in employment for all jobs. That is something that I certainly support. When religious organizations receive government funds that have these religious nondiscrimination obligations, those obligations certainly should not bind the entire institution. They should not bind, for example, a chaplain that's privately funded, that's working outside of the government program. When religious organizations receive government funds, I also believe that they should be permitted to discriminate on the basis of religion essentially for all jobs that are privately funded -- jobs that the organization funds itself. But when government funds are used to subsidize jobs -

- and here I'm enunciating my own views -- I think the principled arguments tilt strongly toward equal opportunity for people of all faiths and none. All citizens ought to be able to compete for jobs that their tax money funds. As a pragmatic matter, however, I think it's relevant to consider issues such as whether policies would disrupt current delivery of services to beneficiaries. So I would encourage the incoming president to say that those who currently hold grants that allow discrimination on the basis of religion in employment may continue that practice for the course of the grant. And at the same time, I would encourage him to prohibit such discrimination in jobs funded by direct aid for grants made after he takes office. At the same time, as E.J. has discussed, I think that given that our knowledge of the actual employment practices within government funded programs administered by religious groups is thin, I would also encourage the next administration to commission a study that looks at these issues as well as other relevant policy and legal matters. There are many

claims that are made now about the impact of nondiscrimination conditions that follow government funds. And I think we need to determine how these -- how these obligations actually affect programs that are government funded, yet administered by religious groups. So I would think that the study should look at programs that contain such bans and those that allow exemptions for religious groups and that should allow us, I think, to have a conversation that is a lot less theoretical and to look at these issues as they actually hit the ground. And then when that study is completed -- and we say it should be completed not less than a year into the next president's term -- we should be willing to talk about those issues again and we should have more data with which to do so. As E.J. mentioned, we also believe that we should keep the state out of church activities and I appreciated Bill Galston's reference to the distinctiveness of religion. I think this is one place where religion is truly distinctive. Our current law treats churches and their integrated

auxiliaries differently than other religious organizations in a number of respects. That is absolutely appropriate for these core religious bodies, but it raises genuine difficulties when we're talking about the extension of government funding. I think this is a very important adjustment that needs to be made -- a reform that needs to be made -- from the last administration's program. At the same time, I agree with E.J. that we should make it very, very easy for congregations to set up separate 501(c)(3) organizations. We need to make that process far easier than it is now -- to help groups to form these separate organizations so that they, if they wish, can receive government funds by religious organizations that are not houses of worship. At the same time, we do know some churches currently receive direct government aid and we don't want to disrupt service delivery, but moving forward we think we really need to put these principles in place. Another reform that is needed is guarded against -- guarding against, as E.J. said, the use of this system as a form of

political patronage. It should be unacceptable to have a government aid system that functions basically as a revolving door for friends and cronies -- including religious friends and cronies. In this paper, we cite David Kuo's book in which he tells a story. David Kuo is a former White House official in the Bush Administration. He tells a story about peer review processes which he describes as being shot through with bias. It's not a pretty picture. It is easy to imagine -- I want to be quick to say -- a Kuo-type story with different characters -- Democratic leaning peer reviewers and Democratic leaning religious organizations. It's unacceptable in either case. The Obama Administration must be very mindful of this prospect and grave danger and take steps to ensure that the peer review processes are based on merit and we discuss some of those steps in this paper. Finally, another reform that is needed is for the next administration to open its doors to those who have some good faith disagreements with its own initiative. In my view, this was a mistake that the

Bush Administration made in not inviting people -- more people -- that had good faith differences over church-state matters, for example, to be part of the conversation. These are complex issues and some of them I firmly believe are issues about which reasonable minds can disagree and I want to be sure to say that. There is a tradition of the White House in many presidencies of trying very, very hard to depoliticize these issues and to invite all the stakeholders in to be equal participants in conversation. That does not mean that the administration only does what everybody agrees on, but they hear from everyone and they reach out to everyone. That is a White House tradition that this next administration must recapture. In conclusion, let me just say that this matter involves two core American values -- service to people in need and safeguarding our first freedom -- religious liberty. May the next administration help us to reconcile and advance both these values in its work. Thank you.

MR. GALSTON: We have now reached the seated portion of this conversation and the two commentators who I've introduced by name, I will introduce no more because they are both so well known to all members of this wide community of concerns. Stanley?

MR. CARLSON-THIES: Okay, I guess I have to admit to some notoriety. I have three points, but first my thanks to E.J. and Melissa for inviting me to comment and for all of you in this room who have been interested in these things -- some of you for many years. I agree with much in the report. I also would stress more the independence of nonprofit organizations. I want to express my thanks to Melissa and E.J., and also President-elect Obama, for treating the Faith-Based Initiative as the serious policy initiative that it is. The heated inside the Beltway debates and much of the press have often treated it as merely a bad Bush nightmare. If that's what you think, I think you'll be surprised to read the report. Our authors disagree sharply with aspects of the Bush initiative, but they show it has been a serious effort

and I think we can have a conversation like this and a report like that precisely because the Bush initiative and its precursor developments have not just been talking political outreach, but there have been years of concentrated effort to reshape federal policy and practice. There is now a significant set of policies and practices to evaluate and to improve. So, point one -- Melissa and E.J. recommend greater protection for the religious freedom of beneficiaries. Such protection is a principle of the faith-based initiative as acknowledged, so what they're asking for is further development and better implementation. I know enough about government having served to be certain there is much room for improvement. Let me add to their recommendation. We should not only protect beneficiaries from unwanted religion, but also take seriously the many beneficiaries who value services that include religion. After all, many Americans are religious believers and many of them don't think that religion is irrelevant to social problems and solutions. I recall emphasizing to an

audience once that charitable choice explicitly guarantees beneficiaries an alternative if they object to getting services from a faith-based provider. Two people in the audience immediately jumped up and both said that they'd been through a series of secular drug treatment programs to no avail and finally had been helped when they went to a faith-based drug treatment program and they said -- they insisted -- that if the government really cared for the well being of its hurting citizens, it would not only guarantee a secular alternative, but also guarantee faith-infused services for beneficiaries for whom that would be a way of helping them. So I'd go beyond the recommendation of Melissa and E.J. that all federal programs should ensure a secular alternative.

Wherever possible, we ought to work to see that there are not only secular alternatives to faith-based providers, but faith-based alternatives to secular services. The Obama Administration should expand the work of the Bush Administration to introduce the choice principle into federal programs. Vouchers and

other forms of indirect funding enable beneficiaries to select from a range of providers including the choice of services that have faith built into them. We ought to respect not only the convictions of the person who does not want services from a religious organization, but also the convictions of the person who desires services with a spiritual emphasis. I think we can do that. Point two concerns the unavoidable topic of religious staffing. It might be a shock to many people to hear from these respected scholars that it isn't merely an invention out of nothing by the Bush Administration that in many federal programs, faith-based organizations can select their staff based on religion even though they get public funds. Some federal programs do forbid religious staffing, but many of the programs have never had that prohibition. Melissa and E.J. and President-elect Obama object to that freedom and that diverse practice. They think that sooner or later there ought to be a uniform new rule that faith-based organization getting federal funds to operate a

service must in that service not hire based on religion. This conviction seems to rest on two views. First, it isn't right for an organization receiving money from all the taxpayers to exclude some citizens from jobs simply because of their religion. I don't think that's a sustainable general principle though. I don't have the right to join the Navy Seals, despite my lack of brawn, just because I pay their salaries in part through my taxes. And does a citizen have the right to withhold a portion of her taxes because she has no children and doesn't think she ought to pay for the local public school? Should we say that a faith-based organization with a religious staffing policy ought to lose its federal tax exemption according to the argument that the exemptions gained at the taxpayer's expense who otherwise would not have to pay so much? Remember, we're talking about private organizations with the freedom under federal law in multiple court decisions including a unanimous U.S. Supreme Court decision to take account of religion when they assemble a staff. They believe this

practice is important to the identity and services and standards. So why does it suddenly become unimportant and immoral if the organization agrees to partner with the government to serve whomever is eligible for the government-funded service? An organization doesn't become a government agency merely because it accepts federal dollars. The second argument is that religious staffing can be banned because it's irrelevant and irrelevant criterion. Why bring religion in instead of hiring the most qualified candidate? We could ask a related question. Why should a Republican Senator or the Obama Administration be allowed to ask about political ideology and party affiliation when selecting staff? Why not require them to hire the candidate with the most experience or the highest test scores? Surely it's because ideology and party affiliation are not irrelevant to them. To faith-based organizations that hire on a religious basis -- whether for the whole staff or just the leadership -- that is those who make the most critical decisions -- that's why they care

about it -- for those faith-based organizations, religious conviction is not irrelevant, but essential. To them, religion is not a content-less democratic characteristic like height or weight, but a vital matter of world view, common conviction and standards, a common passion that goes beyond economic motivation and humanitarian feeling. As E.J. and Melissa have said, we don't know how many faith-based receiving federal funds hire on religious basis, but since the practice has never been forbidden in many federal programs, we can be sure that many engage in it even if what they have been doing has come to general notice only in the last number of years when suddenly this exercise of freedom has come to be regarded as a grave constitutional and moral offense. I can tell you that I recently stood in front of a room of Christian organizations that performed some significant percentage of the overseas relief and development work paid for by our tax dollars and they all said by a show of hands that the religious staffing freedom is essential to their organizations.

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

And, by the way, they were all deeply offended when I told them that many on Capital Hill and inside the Beltway regard them as bigots because of their commitment to religious staffing. A requirement that a faith-based organization receiving federal funds losing the freedom to take account of religion and hiring for that program would be an unprecedented universal restriction -- something that has never been the rule in the past across all federally funded programs. It will not be a return to the status quo. It will not be a return to the status quo before charitable choice. It will be a sweeping, and for many unacceptable, new restriction and I protest on their behalf against this unnecessary and harmful restriction. Point three is my final comment. Despite the stress on private funding and private charity in the report which is wonderful, I think it assumes unintentionally that in social services it's the government that's a major player. So it's up to the government to decide the terms -- expansive or restrictive -- by which it will allow faith-based

groups to get money. This assumption puts us on the wrong track I think. Faith-based organizations and sometimes secular ones are usually the initiators -- the first activists -- to provide some social service -- first in orphanages, hospitals, drug treatment, lower schools and higher education, overseas development work, disaster response. Only later does government step in with its programs and money. This is not merely due to an American distrust of government solutions. I think it's a matter of citizens -- groups of citizens believing they have a primary responsibility as believers or as humanitarians to be active in service. I emphasize this priority of faith-based and humanitarian service because even when we debate the right government policy toward such groups, we should never slip into thinking that these private faith-based and secular organizations are merely shapeless entities there to do the government's bidding. When the government collaborates with them, it should treat them as independent organizations with their own

responsibilities and ways of operation. Of course, the question is how far to go there. They are not mere agents of government even if they receive government money. They are not just cheaper versions of some government agency. It is only by respecting the faith of faith-based organizations and the independence of the independent sector that the new administration will actually get all hands engaged in serving the needy with energy and success.

Restrictions such as a general ban on religious staffing do not support the diversity and flourishing of American civil society. It is as distinct entities that faith-based organizations make their best contribution to the common good. Organizations don't have to be the same to serve the public.

Indeed, the public is diverse with varied convictions and preferences. Many people seeking help want help from organizations that are distinctively faith based -- organizations not simply motivated by faith, but shaped in their practices and in the personal example of their staff by one or another faith. For faith-

based services to flourish, the next stage of the faith-based initiative must continue to enlarge and not restrict the freedom of faith-based organizations to be distinctively religious. Thank you.

MR. GALSTON: Thank you, Stanley. David?

MR. SAPERSTEIN: First, I also want to acknowledge the wonderful group of people who are here and it's always dangerous to single people out, but for people who are going to be listening on line later, they ought to realize we have an array of very distinguished religious leaders. I see Tom Reese and Jim Wallace here of some of the major advocates of religious freedom over the last decade in a nation's capital. Rich Foltin and Holly Hollman and Aaron Schuham and Nathan Diament and Steve McFarland -- forgive me if I've just -- I don't have my glasses on and don't see others who deservedly ought to be named. I also want to just acknowledge someone who most of you probably have not heard of, but Frank Monahan, who for years representing the Catholic church, was the dean of the so-called religious lobby in Washington

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

and one of the truly consummate professionals representing American religious life here. I was struck, Bill, at that moment when you paused after saying and I want to quote the wisest man in history. How many people in the room stood up -- straight, shot up straight here for a moment here? The -- now, of course, if we're dealing with second place, E.J. would be high up on the list of contenders -- one of America's great public intellectuals and Stanley as influential and articulate advocate on church-state and these faith-based initiative issues as anyone in American -- everyone knows Bill's role as a major political force and thinker in American public life, and Melissa, who's one of the most brilliant church-state thinkers in the country and one of the most pragmatic doers in this field. This report is a remarkable tribute to these guys and I hope that you were as struck as I did and I hope you will look at the footnotes as well because this is a magical mix of deep scholarship and policy and legal mastery on the one hand and presented with a lucidity and

accessibility -- what we would call in IT terms user-friendliness -- that is really quite remarkable. On that level, the arrangement of the recommendations the way they are really makes it a helpful document to policymakers who will be looking at this and I'm really proud to be a part of it and congratulations to you both. There is a need to get this right. A -- it is a contentious issue. It is a divisive issue. At a time we need healing in America and to bring America together, we really need to get it right on that level. Secondly, we needed to get it right because of the millions of people who need help. And the growing numbers of people -- the illiterate who are shut out, the homeless shivering on our steam grates in this encroaching winter, bodies disfigured searching in vain for affordable housing for shelter, the elderly trapped on fixed incomes with savings so depleted by the fall of the market feeling vulnerable and fragile with greater need at this period of time, the 47 million Americans without health insurance at this moment -- some 70 plus million over a period of any 12

months in American life. And it is a charitable community that is the major vehicle that reaches out to them -- often with government partnership and funding behind them -- to make a difference in the lives of countless millions of people who otherwise would fall through the cracks in the social safety net. Every government promises to take care of the truly needy, but between the promise and the deed it's an aching abyss filled with the shattered lives of millions of our brothers and sisters in this country. We need to get it right for their sake as well. And that list goes on and on and grows larger and larger today. Third, the religious community already is one of -- if not the -- major player. There have been partnerships between the so-called affiliated religious entity -- Catholic Charities, Lutheran Social Services, the Jewish Federation System, on and on -- I see many of the key players here in this room -- that has gone on for decades. Over the years, billions of dollars of social service is provided through the partnership with the government. Often in

the debates over charitable choice, it's cited what wonderful work they do as if they're not already in partnership and funding relationship with the government -- they are. And it needs to be expanded so long as they continue to prove the value and effectiveness of their work. But there's also the role of the churches and houses of worship in American missionary groups in America. In the mean, many of these -- some government funding goes and some of these are in, you know, murky kind of constitutional status -- particularly the missionizing social service groups -- but in terms of the houses of worship, there are millions of Americans that are devoting their time and effort in providing to the needs of needy Americans already -- bursting at the seams sometimes in the programs they do. Not always clear, by the way, if government money flowed to them, it would result in more people being served rather than freeing up money to engage in other kinds of religious activities. And one of the criteria, it seems to me, about any kind of program that would put more money in

is it actually results in more people being served and it ought to be one of the things that we -- that we look at. Let me just say a word about the constitutional context and the policy context in which this report is being issued -- and the convergence of issues here. First, I mentioned the growing need. Second, the -- there was a long-time doctrine in the court that we called the pervasively sectarian doctrine that institutions in which religion was so pervasive, they couldn't be separated out from the rest of the work of the institutions could not get direct government funds -- churches, parochial schools. That doctrine hangs by a thread right now. It hangs by a thread. Sandra Day O'Connor -- the last time this came up -- preserved it. It has not come up since she has stepped down. People presume we'll get some indication in this term about what Justice Alito's views are on the issue -- people presume that it may well get struck down. The bar against direct government funding of churches may get struck down. If so, one of the questions I would have for our

authors is in terms of your provision saying set up separately and cooperative C-3's, is that because of the -- to what extent is that because of the constitutional constraints? To what extent is that because of the policy constraints that is protective of -- it is better government and better protection for the churches as a matter of policy and would the change in the Court's views have any change in your thinking about it? We are seeing these reports being in the vexatious battle that I'll return to conclude with that Stanley talked about and Melissa talked about, about -- actually everyone talked about -- employment discrimination issue that ripples through not just this issue. You have to understand, it ripples through countless government programs and religious -- and discrimination laws. And how this gets handled here, may well touch a broad array of issues so that some of the intensity of energy on this happens because of the debates going on more broadly on these related issues in government, and, of course, the need to ensure that recipients are not forced to

compromise. It won't surprise you, we were invited -- two of us -- to comment in part because we have different views on issues here. I do not believe that government -- direct government funding ought to go to groups that have religious content as part of what they're doing, but indirect funding is available. And this is now a political choice. This is a political choice. Do you want to have a battle and tear the nation apart over this direct funding issue? Or do you want to all work on what we all agree with and look to increase the amount of nondirect funding that is accessible to go to these groups? I would just say that the fundamental theme to me of this report is how much can be done without engaging in some of those battles. There are things I don't think are mentioned in the report that if we wanted to do in terms of getting more money, we could do. We could change tax deductions for certain kinds of social service contributions to tax credits. It might even be possible constitutionally, if there are categories that this would fit beyond just the religious

community, to say that groups that are -- that are ineligible to receive government funding are entitled to where contributions are made for these social services, it could be a tax credit rather than a tax deduction, which would pour millions of dollars into these things. If we want to avoid the political battles, we can avoid them and this is really a question of the political will of the participants in this debate -- where you want to focus on this, what issues you're trying to win on these issues. There's -- Steve McFarland, one of the great advocates back there here. There have been a flurry of reports, I think, and actions as people know on this -- the Lupu-Tuttle Report on the state of law issued a press conference here earlier this week. Just this week, one of the major coalitions -- the CARD Coalition -- has finished its draft executive order as a model of what the administration might do to correct some of the problems that it feels have existed with the -- with the Bush approaches or if it isn't the problems, it's the ambiguities that exist in trying to fix them

and, of course, this remarkable report. And, finally then, the religious discrimination issue. I would pose to the two authors the question I think is really -- every time we know more about what really happens, we're going to make wiser decisions. This is a major contribution to call for that study. Paradox -- while that is true, can one also make the argument that it doesn't matter what actually happens? If using tax dollars to discriminate is wrong, it is just wrong -- whether five percent of the recipients do it or 50 percent of recipients do it or 99 percent of recipients do it. If Stanley's argument is right in the protection of the religious identity and character of these organizations is the core that has to be protected, then it doesn't matter if five percent or 50 percent or 90 percent discriminate or not. You ought to be entitled to do it. So, I feel a paradox in this and I'd love to hear your reflections on that. For those who are not aware of the debate, you know, there are two extreme views. One is -- I don't mean extreme in -- that's the wrong word. There are two

views that take purist views on this. One is the religious character identity requires the ability of groups to hire whoever they want -- whether they get government funding or not. And one that says tax dollars should never be used to discriminate. Now, I would say to Stanley that while E.J. and Bill and I have a lot of trouble frankly identifying with your issue about lack of brawn keeping you out of the Navy Seals -- nonetheless, here -- brawn is --

SPEAKER: (inaudible)

MR. SAPERSTEIN: Bill is a former marine just so you know and you can just tell from looking at him, he's in better shape than at least E.J. and I are. The -- brawn is not a protected category under the constitutional schema here. If you were deprived with your tax dollars of being hired because you're a Christian, I suspect you would feel differently about it. I'd certainly feel deeply and profoundly differently that tax dollars used for a program that has a sign outside that says Stanley Carlson-Thies' type of Christian is not welcome to apply for a job

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

here, would be deeply troubling for me on those grounds. Much of the debate right now falls in the middle of those two views. And I'm just going to spend a minute more on this and it focuses on two ways of thinking about it. One is the distinction of if government money flows in the program, those jobs that are paid for by government money, you shouldn't discriminate in. If you want to discriminate, don't use the government funds to pay for them. That's one way of thinking about a difference. Another is, any program that gets it. It's hard to -- mostly you don't have job-specific funding. The program gets the funding. And rather than kind of monkey around with this and play games that would allow people to say we're taking it for the program, not for the job and then we're giving it to those jobs so we can discriminate, just say no discrimination in the program. And then the classic civil rights law, religion is treated differently under civil rights law than other groups. What classic civil rights law says, if an institution gets it, the entire

institution can't discriminate. There are some who argue for that, but comparatively few. And the debate is mostly in this job-specific versus program-specific. That actually is not such a large set of differences and we can focus it down. There's another way of thinking about the dichotomy which has to do with is this -- is this a line staff job or a supervisor job. Imagine a small -- which many recipients are -- a small group -- you know, five, or if you use the 15-15 people in the entire institution that's getting the money -- so you come under the cover of the law, the executive director. Do we have a right to say it doesn't matter whether they get full government funding or not? Executive directors running a Catholic agency -- they have a right to say they have to be Catholic. If they are Hindu agency, they have a right to say they have to be Hindu. But, can you argue that line staff that are providing the services directly -- the therapists, the person ladeling the soup, the tutor in the literacy program. You can't discriminate on that. Is there some

difference between supervisory and direct service people and what happens when supervisors are involved in direct services? You can see how it gets complicated, but as a way -- if you're talking about the character of the program to think about it -- that's where the play in the debate is right now. The report is helpful in laying out some of these issues, but I wanted -- since it's come up in every talk -- to spell it out a little bit, narrow the issues. I do believe there is common ground that can be found -- a consensus here -- and I think the CARD effort is one step in that direction. The report clearly is very, very helpful in saying common ground is what really ought to be the goal and the target. It is true on this issue. It is true on the entire report and we are all in the debt of these two remarkable people for having presented us with this gift.

MR. GALSTON: I think we're equally in the debt of these two remarkably energetic and clear commentators, whose level of energy, passion and life-long commitment on these issues is really, really

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

extraordinary. We have talked straight through the crosstalk portion of this and we are going to go straight to questions and, indeed, we're going straight to a collection of questions because we have only about 12 minutes left and there are lots of people with questions. So, we're going to spend about -- I'm going spend about seven minutes collecting a bunch of quick, crisp questions and then we'll spend the remaining time trying to answer as many of those questions as we can or at least respond to them and Jim Wallace is alertly at the head of the queue -- unless you want to be later. It's up to you. Okay. Other questions and hands. Yes, sir.

SPEAKER: There are people at the microphone.

MR. GALSTON: I'm sorry. People are lined up at the microphone.

SPEAKER: There are people with the microphones, yes.

MR. GALSTON: Yeah, I am very sorry. I was so tunnel visioned that I did not see that. I'll go boom, boom, boom, boom.

MR. DIAMENT: That's how you succeeded in the Marine Corps, no doubt.

MR. GALSTON: Yes.

MR. DIAMENT: Well, thank you all. I want to --

MR. GALSTON: Please identify yourself.

MR. DIAMENT: Nathan Diament with the Union Orthodox Jewish Congregations. I want to add my praise to E.J. and Melissa and the commentators as well. I will try to be concise. The -- there's an irony to all of this, especially for those of us who have been working on this, in that -- I mean for eight years I've been saying to people it would be an interesting thought experiment if we were doing these debates under President Gore's Administration rather than President Bush's Administration. But, to some degree, the people that think we can have that thought experiment now, I think we've already seen there's a

lot of water under the bridge. There are a lot of things in your recommendations, ironically -- you mention the legislation that was proposed in 2001. A lot of things that are in your recommendations would have been put into law had that legislation not been derailed by the -- by the political debate and you might want to emphasize that in your supplementary materials as well. There were explicit provisions about beneficiary protections, about -- about oversight, about the need for a secular alternative and so on and so on and so forth. That's my way of introduction. I don't want to be the skunk at the garden party, but I think while your -- while your recommendation to help solve the hiring rights versus discrimination debate is an interesting academic suggestion, I would respectfully suggest it's a little bit nutty. I -- I would -- it's --

SPEAKER: Tell us what you really think.

MR. DIAMENT: It's wonderful -- well, in an environment in which -- and this goes to something that David alluded to in his commentary. This is not

an isolated issue. This is not an isolated debate. In an environment in which there are supercharged political debates over hiring and religious freedom issues -- particularly the interplay between gay rights issues in particular and religious institutions generally -- and Exhibit A is the whole prop eight experience in California. The notion of a government employees or a government-appointed commission going around trying to get answers from religious institutions -- what are your hiring policies exactly? Which people do you discriminate against? What is so important to you that you will not hire or you will fire somebody if this comes out? I would advise any congregations that ask me don't answer those questions no matter what you think the answers are. You will not be able to penetrate the information. Moreover, because there are folks out there that want to turn every church and synagogue of a traditionalist bent into Bob Jones University. So I think you have a real problem there in that regard. But, but -- and so there -- I'm sorry to say, I think you're going to

have trouble collecting your empirical data, but I'm also -- I'll also say, ironically also, part of the answer though is the exchange between David and Stanley, which is they both sort of agreed on a fundamental point which is if this is a really important issue worth protecting, then it doesn't matter. And if it's a really important -- and if it's not such an important issue, not worth protecting so to speak, it also doesn't matter. So we really need to decide -- we really need to engage with the core value question and have the core debate over the issue and make the decision based on what's right, what's constitutional, what's the policy we want in society. And on a certain level, ironically, I don't think the data even, you know, is the way to get at it.

MR. GALSTON: Thank you. Yes.

MS. SCHNEIDER: Jo Anne Schneider. I'm the Director of the Faith and Organizations Project which is an interfaith project including all the world's great religions including Jews, and African-Americans, Latinos and Asian faith-based organizations looking at

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

what is uniquely religious and the relationship between those faith communities and those organizations. We've actually been collecting data for about, oh, seven, ten years now and I wanted to share some very quick top line things that relate directly to this and sort of add a couple points. But I want to congratulate you on what I suspect is a wonderful report. The first thing that we have learned is that with the exception of Evangelicals, every one of these organizations -- including the Catholic Charities and the Jewish Family Service, etc. -- reflect their religions very strongly, but they embed it. It's not out there. They're not sharing their faith with anybody. The second is that if we look at hiring, I have data from '87 -- 1987 going -- that is -- says this is from a Catholic organization -- a large one -- with more than, more than 50 percent government funding and the ad it says knowledge of catholic values required, EEOC position. So, this has been dealt with and gotten around for a very long time. What happens in reality is that leadership is

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

key and leaders often need to be if they're going to reflect that faith from that faith. Below that, it's all over the map, but culturally they're looking for people that fit. And so I think that's the issue to really look at, rather than these constitutional things because that's what's happening in reality. The second thing which I think is terribly important is that all of these organizations reflect different religious values. There are different models for Catholics and Jews than there are for any mainline Protestants and Evangelicals. And my wish for this new -- new White House initiative is that it reflects all of them -- and that it reflects all of them equally --

MR. GALSTON: In fairness to --

MS. SCHNEIDER: -- and I'm about to end in a second.

MR. GALSTON: -- all of the other people who are -- yeah.

MS. SCHNEIDER: So, that's my second wish.

But the two things I want to add or disagree with here

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

are that we have organizations that have separate EINs as opposed to separate 501(c)(3)s. I think that needs to be considered. And they are -- have been having government funds for years. And then the other thing that we need to think about is not just simplifying how you do a 501(c)(3), but what really makes a difference is all of that administrative paperwork and the impact that has on any organization regardless of faith or not and how that really influences not just the government-funded programs, but everything else because you have to make everything fit. And at that point, I'll end.

MR. GALSTON: Thank you.

MR. MARUS: -- on that last point. I'm Rob Marus with the Associated Baptist Press and in seven years of covering the -- seven plus years now -- the question I always ask that I've never got a very illuminated or illuminating answer from an advocate of the Bush position on -- and I may not get one now because there's not enough time -- on employment discrimination is how is insisting on religious

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

organizations receiving government funding to provide secular social services, but yet are so faith, you know, drenched as one term puts it, that they can't provide the service without practicing religious employment discrimination. How is that not having your cake and eating it too?

MR. GALSTON: Sir.

SPEAKER: (Inaudible), correspondent. I only ask question -- four questions. First, how to know is faith-based organization actually start with Clinton Administration and why is not called this is a kind of culture Vietnam? And second is this. What did President-elect Obama say about his reform way to carry out this partnership with faith-based organization? And third, Melissa talked about what's reform going to be and this seems a large thing to do. Did anybody know how big the current office is and in order to carry out what you want to do, how big the office going to be? And the fourth is this. I keep heard common ground, common ground. What is common ground? Thank you.

MR. GALSTON: Good question.

MR. FOLTIN: Richard Foltin from the American Jewish Committee. First, I also want to thank you -- the authors -- as others have done. I feel that there's like an intellectual ferment -- excitement -- going on, which take me back actually eight years to when President Bush first unveiled the faith-based initiative and we had different views of it, but there was all this dialogue and excitement and I feel that we're in that time again and I'm looking forward to the conversations all of us are going to be having about how to do this -- how to do this right. I have two -- two points. I'll try -- I'm going to be very, very brief. One is a specific question. E.J., you used the term contract in your remarks and it happens that there's a longstanding executive order about nondiscrimination in institutions that contract with the government as opposed to grant -- the practice of grants. So I wanted to ask you whether you use that question -- that term --

MR. DIONNE: I hadn't consulted with my lawyer (inaudible).

MR. FOLTIN: But there are -- there are differences between --

MR. DIONNE: We had a lot of conversations about that.

MR. FOLTIN: Okay. But there are differences between contracts and grants and I think that's something that we have to think about. And second, really responding to the point that my friend Nathan made -- I hope he's wrong that we can't -- we can't get more information, because having sat at that same CARD table -- so to speak -- that David Saperstein referred to, I think it's clear that there's a lot of -- lack of information for people on both sides of this debate and whatever our ideological perspective may be, I think it's clear politically, as well as in terms of what the right thing to do is, that any construct that would shut down Catholic Charities, that would say that the Jewish Federations can no longer be involved in partnering with the

government because there are unacceptable imposition on them of who they can hire for supervisory positions, for the executive director position, for someone who happens to have one small piece of their duties being responsibility for a program -- I think as a nonstarter, I don't believe this new administration is going to do it and so I think we do need to have that facts-based conversation so that we can figure out better how to reconcile these competing principles. Thank you.

MR. SPRIGG: Yes, Peter Sprigg with Family Research Council. And my question relates to something that Nathan alluded to which is you've discussed the issue of discrimination with respect to religious affiliation and I was curious whether the report addresses the further question of those groups which may quote-unquote discriminate based on the specific personal conduct -- moral conduct of the employees -- may insist on employees conduct be consistent with moral standards that the faith-based groups holds, particularly with respect to sexual

conduct and even more particularly with respect to homosexual conduct. And I want -- my one comment is that if you prohibit quote-unquote discrimination based on religious affiliation or based on compliance with certain moral standards of the faith-based group -- well, to preface it, I wanted to say I thank you, Melissa, for admitting that Democrats would be just as prone to perhaps using this as a political patronage, but if you ban discrimination based on religious affiliation or based on moral standards of conduct, you may be creating a de facto situation of political patronage by a priori excluding conservative organizations for whom doctrine is highly important and for whom moral standards of conduct are highly important.

MR. GALSTON: Thank you.

MS. SCHROEDER: Terri Schroeder, ACLU. I wanted to echo Rich's original comments about how thankful we are for this work and so much of the work that's been done and also this kind of idea that there is this new energy again around these issues. I will

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

say as someone who was around back then and now, I think there is some -- there is a unique difference, which is I do think we have come a long way and I do think that the groups around the table from all points of view have really found common ground in a lot of areas. Eight years ago, we were arguing about whether or not there should even be an office and what -- you know, what -- whether faith-based organizations should participate, you know. The conversation of how, when, where, so on, was so very different. And so I think we're very, very thankful that we're moving in that direction and reports like this and the work that the CARD Coalition is doing and others are doing and the conversations that we're all having outside and inside these rooms are really, really critical and give me great hope. The question that I have and one of the issues that I keep struggling with and talked to at the last event with others is this whole secular alternative issue, because I know as we've dealt with this over the years and as we dealt with it in the Care Act in 2000 and so on and so forth, there's this

reality check which is that, you know, it's one thing to talk about the secular alternatives in urban communities and in big cities, etc. It's a totally different story to talk about those issues in small towns and rural communities around the country. And you bring -- you kind of -- you bring the economic situation that we're dealing with into that -- into play and we really have a problem where, you know, realistically how do we accomplish that? And I think we all think we should and that that's important, but I think it's a critical part of this conversation. If we're making that recommendation, we have to -- you know, we have to do it in the context of where we are right now.

MR. GALSTON: Thank you.

JIM WALLIS: First a word of thanks. It's good that some things stay consistent from administration to administration like the quality work of E.J. and Melissa. So, thank you for again setting the table in the context for the discussion. Secondly, it is about context. The person in this

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

town that I rely on most for numbers told me privately last weekend that his forecasts are probably going to suggest that we're about to see nine million more Americans plunge into poverty in this country. So if you're counting, this is 36 million to 45 in this country. And then the people who work on global numbers tell me that (inaudible) progress we've made in the last several years on global poverty -- because of fuel prices and food prices -- we're about to lose much of that as well. So as somebody said in a recent newspaper article I read, our need may now be less for Henry Paulson and Dorothy Day. And so the context for all this should wake us up dramatically, which -- then number three, it would be the good conversation about balancing of these kind of concerns -- religious identity and if you listen on the ground, what you do hear from people doing the work on the ground is how important they think it is to preserve their identity as faith-based organizations. That's why (inaudible) is important. But there are broader issues that are very important constitutional issues. But I would say

we should resolve those in a way that doesn't restrict the impact of its work, but expand it. David made that point. Unless we broadly expand what we're doing now, those in need are going to suffer greatly because of our Beltway conversations in this town. And fourth, the one thing I would just add to the report is we dare not let this be a restrictive conversation. That -- it's what Melissa said -- this should be much more about money. Faith in this country and its influence should be more than about what we get funded. There is so much that we need to offer to this -- to the common good. It's got nothing to do with money. I would suggest very quickly that who knows the families and the kids and the streets in the poorest parts of the country better than the faith community? And I would say that knowledge and relationship is bigger and better than HHS and HUD and Labor all combined. And overseas, who knows the country's context relations better than MCC, World Vision, all the rest -- Catholic Charities -- better than I think State, Defense and CIA. The question is

how does a faith community become a resource for policy? Not just for funding. A resource for policy -- even policy not to do with funding us. Policy about how do you resolve conflicts around the world? How do you serve the poor? What makes poverty abolition possible? So how can we expand beyond just a faith-based office and who gets funded and what the rules are to how the faith community can be a resource for shaping better policy in those countries (inaudible)? These two -- these two here that did the report are the ones to help us with that question as well.

MR. GALSTON: Thanks so much, Jim. I see three more people lined up and I will take these three and cut it off there regrettably, because there's a lot more energy in the room than that, and then we'll proceed to brief responses over and out. Yes, sir. You are?

MR. NELSON: Dennis Nelson, People for an American Way, African American Religious Affairs. Can you hear me clearly? Okay. A very concise question

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

and as we look at the discrimination aspect of how people are hiring in the faith-based organizations, has an -- sort of an affirmative action approach -- has that been thought of or thought out whereas faith-based organizations can still hire who they may, but there may be some type of requirement to hire outside of what would be considered the moral majority of that particular faith. I mean there would have to be some outlines behind it, but how has that been played out and has that been thought of and what are your feelings on that kind of approach towards trying to resolve the discrimination issue?

MR. GALSTON: Thank you.

MR. REESE: Tom Reese, Georgetown University. I don't know whether you treat this or not in your -- in your report. I haven't had a chance to read it. But it seems to me that there's -- there would be an advantage for the government to encourage ecumenical activities and programs here. It seems that that would also deal with a lot of these questions about hiring, about, you know, religious

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

proselytizing, etc., etc. If the organization has Jews, Baptists, Catholics, Lutherans in it, that has a totally different dynamic and it would seem to me that it would be in the government's interest and in the religion's interest to encourage these groups to work ecumenically together, especially if under the Obama Administration you're talking about dealing with neighborhoods. Neighborhoods are pluralistic.

MR. GALSTON: Thank you.

SPEAKER: Three word answer. Amen and we do specifically.

MR. GALSTON: Final question.

MS. MENZIES: Good morning. Isn't it great to be last? My name is Clareen Menzies. I work for Islamic Relief. We have an organization in the United States. We have sister organizations around the world. And I have a very quick, upside down question. I run the domestic programs, but have occasion to understand that we have 10 offices in the Sudan. And in southern Sudan, we require that all of our staff are Christian because all of the population is

Christian. So what would this rule -- how would that affect this program decision? Thanks.

MR. GALSTON: Thank you. So I think -- can we just proceed down the table.

SPEAKER: Yeah. I think that's good.

MR. GALSTON: Very good.

MS. ROGERS: Wow. Well, I guess getting to be first here is lucky because I can just cherry pick a couple of things and leave the rest to others. I'm going to try to just focus, I think, on about three things. First of all, this study that we recommended. I appreciate the fact that there are going to be some tricky issues with that. We haven't spelled it all out in this -- in this report, but I think that -- I do believe that we need to have less theoretical discussions about this issue and that doesn't mean that principle does not exist, but that we do -- there are a lot of claims floating around about how these bans just -- the last question indicated one of those questions. But we need more information about these issues. And I'll just give an example. When I was

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

working on the report, one of the things that I found that appears to be true is that when students receive Pell Grants or money through the GI Bill or the like, then they take it to attend a religious college and many of those religious colleges discriminate widely in their hiring for jobs, faculty and the like at those schools. That -- the indirect money that comes to those schools somehow subsidizes those faculty positions, of course. And yet that happens -- to my understanding -- that happens very widely. Now, in principle that's something that again I think my principle is that anybody should be able to apply for a job that is government funded. But at the same time, I recognize that that's a longstanding practice that has existed that colleges and universities have depended on and so that influences my thinking about what the best policy should be. So that's the kind of thing that I think we -- and I agree with Stanley -- that we do need to look across the board and say what are the other policies that the government -- the federal government -- observes when it gives out money

as to employment. What do states and localities do? What -- if it's not written -- what's their policy and practice? I think that information is relevant in forming policy and principle is relevant in forming policy as well. And so I hope that the study will bring to bear some more information for us to apply our principles to these very important matters.

Alternatives -- I think Terri Schroeder talked about - - and I want to thank her for coming, too. Terri has also been a great leader in these issues.

Alternatives to providers that are religious providers for those who would request them -- yeah -- I'm sorry, secular providers for those who would request them, is absolutely critical and she is absolutely right that in rural areas or in small towns, there may -- it may be a completely different situation than it is in big cities. And so one of the things we recommend is that the President's new council on faith-based and neighborhood partnerships hold annual hearings and we suggest that at the first annual hearing, one of the topics of discussion should be precisely this issue

because it has not been studied. We don't have a good understanding of it. The law in this area has changed rapidly in the last 10 or so years and we don't have a good handle on what actually are the possibilities, for example, in rural areas and small towns where there may not be very many providers to begin with. So we hope that this council will actually do a lot of this work in marshalling evidence, bringing together studies, making our discussion not only one that involves faith-based providers, but is a much more fact-based discussion. And I think that will be an antidote to some of the polarization of this issue if we can talk about what actually happens in America today and then what -- apply our values to those principles in ways that work. Let me just -- let me just close by saying I think -- I appreciate so much David's emphasis on and Jim Wallis' emphasis on the poor and the great needs that exist. We should never, ever lose sight of that. If we do, there's something wrong with our conversation -- fundamentally. And we must make this a conversation about helping those in

need and expanding it beyond -- as Jim says -- looking at who gets money from the federal government or state governments to do this work. That is not the primary question. The question is how do we take care of the least of these in our society and we must keep that central. And I think David is right to say that this will be what we make of it. What we decide to do here is we now have the chance at a new beginning with a new administration. And if we decide to focus on conflict, we will focus on conflict. And if we decide to focus on helping the poor and improving their situation and looking more at common ground, then that will be what the next four years is like. That is our decision to make right now and I hope that we chose wisely in that regard. I also just want to close by saying I think Jim's absolutely right that the next administration should look at religious groups as a resource for all kinds of issues and that the council could be a great way to bring religious voices into the conversation -- not to privilege them. No. But to make them a part of the conversation and to make --

hopefully reduce the sense of pandering to religion, as religious bodies, as somebody that politicians pander to -- but make them a normal part of the conversation about what happens in America and what the government does and what communities do to help people in need. So, thank you for that.

MR. GALSTON: Thank you, Melissa. E.J.?

MR. DIONNE: I associate myself with everything just said by my distinguished colleague from Virginia. Amen. And I particularly want to underscore my agreement with Jim and David on this whole question that we can be in Washington and argue forever about a certain narrow set of questions that give lots of people jobs in Washington, but it really doesn't help a whole lot of people who are going to be suffering in this economy. And so we got to figure out how not to do that and how not to get in the way of this work. I want to thank my friend, Richard Foltin, for answering my friend, Nathan Diamant. The whole point of this study, I think, is to see how much does this rule actually impact the work of these

organizations and that in the course of this study, would the study itself encourage some give and take because I think Richard put it very well. We don't want to shut down and I think this -- Melissa and I very much agree on this, even though Stanley kind of (inaudible) over it. We have a slightly different perspective in the report. But, we don't want to shut down longstanding partnerships. If there are ways that you can find to sort of -- perhaps groups could live with a rule that a lot of people find reasonable -- the idea that taxpayer money -- there's a problem with taxpayer money funding jobs that other people can't get. But, perhaps there could be some give and the study itself could encourage us to figure out, you know, how big an impact is this? Could groups live with restrictions that they don't think they could live with now? And so I think the study does have value. I just -- I want to just thank David. You know, remember that old Levi's real rye bread ad? Well, I'm a Catholic and David is my Rabbi and that was just a great presentation. You asked two

questions. The one I remember is even if the court went the other way, should they form the separate organizations and I'm grateful the person who raised red tape. The answer I think is yes. And in the course of the report --

MS. ROGERS: I agree.

MR. DIONNE: -- we quote Floyd Flake who has about 11 of these different charities in his church. I think it just protects organizations in so many ways so that whatever -- I think our recommendation stands whether it's a may or a must --

MS. ROGERS: Yes.

MR. DIONNE: -- a phrase -- a legal phrase that Melissa taught me. So -- and I've forgotten your second question, but it was also a good one.

SAPERSTEIN: You have already answered it. It had to do with does it really matter what the results of the report are? If it's wrong, it's wrong.

MR. DIONNE: Right.

SPEAKER: But, you've answered it.

MR. DIONNE: And then quickly on Father Tom Reese's point. We call attention to this new set of groups called IFBOs -- as if there weren't enough acronyms in this field already -- Interfaith-Based Organizations. And I think there's been a lot of concern in this debate about how smaller groups engage and can they go through the bureaucracy and a lot of small, individual congregations have found partners across faith traditions. Working together they can do a lot more than they can do separately. It's a very old rule and I think the lady from the Muslim organization -- from the -- what is your organization called?

MS. MENZIES: Islamic Relief.

MR. DIONNE: I think that's a fascinating question and I want to turn it upside down yet again by saying it is my understanding that a lot of groups who say domestically they can't live with these restrictions, when they are abroad tend to live with rules that help them serve a particular population in need and they've shown flexibility when they operate

abroad. And, again, that's the kind -- I don't know the specific answer to your question. I can't imagine a regime that I would support that would tell you have to send in only people who would be ineffective in a particular part of the world. But I do think that the fact that those groups have shown flexibility in their programs abroad, suggests that maybe there could be more flexibility at home. But lastly, I just want us to do this right this time around following what Nathan said. I think we can try to avoid some of the fights that we've had in the past. We can start over. That's not a partisan comment, because the Democrats -- as the gentlemen from the Family Research Council said -- Democrats do patronage historically at least as well as Republicans do. But, let's try to do it right this time. Thank you all very much.

SAPERSTEIN: Let me make three fast comments -- one a question for us to ponder. It's not clear to me, Tom, that constitutionally the government can prefer interfaith groups over --

SPEAKER: (inaudible)

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

SPEAKER: -- non-interfaith groups and to do it. Secondly, the --

MR. DIONNE: I love dealing with lawyers.

SPEAKER: I want to deal with the report question that Nathan put on. The court's interpretation of the religious exemption against discrimination falls into two categories. You can discriminate on the basis of religious identity. And then there is some allowance to discriminate on the basis of people holding religious tenets. Religious tenets would be pretty hard to get at for the reasons you're talking about. Religious identity I don't think would be. I think you can fashion your survey that people would feel very comfortable about answering do you have a need to discriminate at this level? What is the rationale for that? Etc. Even for people who say oh, we'll abide by the law, but we prefer it this way. I think there are ways to get that. And where that will be really helpful is -- you remember the distinctions is why I went into some depth on it -- the distinctions between supervisory

versus line staff or between job and program. If we know in real life what the real needs are and how it actually works, our ability -- we're already close to finding common ground and compromise on that. Our ability to really close that would be greatly enhanced. And finally, to our colleague from the Islamic Relief group. The high court has never ruled on the question of government funds that go to groups that work abroad or to foreign groups. It's never ruled on that. Lower courts, circuit courts that have dealt with it have thought about it a little differently than the way that Bill thought about it and it thought about it as though it's almost like an individual right kind of analysis -- meaning there's a bar because the establishment cause prevents funding that would allow for that kind of discrimination or allow for religious services or missionizing activity. Yeah, there's a bar. Establishment clause prevents it. But, if there's a compelling reason that the government has for doing it, it might trump it -- something we would never do domestically where it's

not regarded as an individual right type analysis, but a structural bar on government. And the reason is the separation of powers doctrine. Foreign policy, by the constitution -- this in the executive branch. And the executive branch can pursue that without the ability of the legislature or the courts to restrict. It has more flexibility to pursue urgent foreign policy interests in a way that wouldn't be possible to do domestically. So the courts have seen greater flexibility and therefore if the government is funding things that are going to be effective in furthering the interests we have in foreign policy, of stabilizing communities and serving the poor there -- and the way to do it allows for that discrimination, there would be an -- it requires that discrimination - - there would be an argument made constitutionally there that would not be available for the domestic front. So, there is greater flexibility is the bottom line.

MR. DIONNE: I know we have to shut down, but I want 10 seconds of privilege for Stanley because

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

I wanted to say before he speaks that (a) thanks for your help on this, (b) thanks for giving us the vigorous response. There's one thing you said. You said that a lot of the folks in Washington regard groups that want to give religious preference as bigots. And as part of this common ground, I'd ask you to think about that again, because we, clearly in this report, as you know, do not take that view and I think the people who worry about this issue are not bigots. They're worried about church-state questions. So, as part of common ground, we have -- in our report -- tried to be as clear and respectful as we can about the views of these groups and I think we might try to reach some resolution if we said neither side are bigoted. We shouldn't be bigoted and no one else -- yeah, we tried not to be. You try not to be. Let's all try to do that together. But, thank you, Stanley, for being with us.

MR. CARLSON-THIES: Yeah, so really briefly. I'd -- that was just reporting some things I heard on Capital Hill -- not from these authors. Or, for that

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

matter, in the general discussion, which I think is a matter of respectful differences about really serious things. I'm very encouraged that we're talking here about principle, anchored and practice. And I think practice is a bit more complex in sometimes legal theories and Washington area debates, and I think we're getting to those deeper levels and we see that today here. I'm also very encouraged by the refreshed interest that's displayed in this room and in the report -- not just the interest, but that it has a much deeper character than earlier, because we've gone through a lot of things and a lot of things have been talked about and wrestled about. Deeper insight into what the actual laws are and the regulations and practices, going way beyond the shouting that was characteristic early and I'm really glad about that because these are really difficult things to deal with and we do have to get them right for the sake of the constitution, religious institutions, independent institutions, poor people. And so I'm just really

delighted that we're getting to a much deeper level here. Thank you.

MR. GALSTON: Well, thanks to the authors. Thanks to the panelists and --

SPEAKER: My questions aren't answered.

MR. GALSTON: Well, --

(Inaudible/mixed voices)

MR. GALSTON: I'm sorry. There was not time to answer all the questions. Let me just -- let me just conclude with the following somewhat surprised reflection that an important theme has emerged in this discussion and it might be described as the tension between a politics of principle and a politics of prudence. And it sounds to me as though maybe the wisest man in history was not Aristotle, but rather the thousand or so authors of the Talmud, you know, who figured out that by slicing and dicing problems you could sometimes solve them.

MS. ROGERS: Amen.

* * * * *

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

/s/Carleton J. Anderson, III

Notary Public # 351998

in and for the

Commonwealth of Virginia

My Commission Expires:

November 30, 2008

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190

ANDERSON COURT REPORTING
706 Duke Street, Suite 100
Alexandria, VA 22314
Phone (703) 519-7180 Fax (703) 519-7190