

## U.S. COMMISSION ON CIVIL RIGHTS

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MEETING

**EDITED**

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FRIDAY, DECEMBER 12, 2014

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The Commission convened in Suite 1150 at  
1331 Pennsylvania Avenue, Northwest, Washington, D.C.  
at 9:33 a.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

ROBERTA ACHTENBERG, Commissioner\*

GAIL L. HERIOT, Commissioner

PETER KIRSANOW, Commissioner\*

DAVID KLADNEY, Commissioner

KAREN K. NARASAKI, Commissioner

PATRICIA TIMMONS-GOODSON, Commissioner

MICHAEL YAKI, Commissioner\*

MARLENE SALLO, Staff Director

*\* Present via Telephone**\*\* Present via Video teleconference***NEAL R. GROSS**COURT REPORTERS AND TRANSCRIBERS  
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STAFF PRESENT:

TERESA BROOKS Was she present?

JAMES BOTANA, Chair, Illinois SAC\*

PAMELA DUNSTON, Chief, ASCD

ANGELA FRENCH-BELL, Assistant Staff Director for Civil  
Rights, OCRE

LATRICE FOSHEE

DORIS GILLIAM

SEAN GOLIDAY

JERRY GONZALES, Chair, Georgia SAC\*

ALFREDA GREENE

JENNIFER CRON HEPLER, Parliamentarian

BENNIE A. BRAXTON

MICHELE YORKMAN, Director, IT

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

ALEC DEULL

JASON LAGRIA

CARISSA MULDER

JUANA SILVERIO

ALISON SOMIN

KIMBERLY TOLHURST

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(9:33 a.m.)

1  
2 CHAIRMAN CASTRO: Okay. This meeting will  
3 come to order. This is a meeting of the U.S. Commission  
4 on Civil Rights.

5 It is currently 9:33 a.m. Eastern Time on  
6 December 12th, 2014. Our meeting is taking place here  
7 at the Commission's headquarters located at 1331  
8 Pennsylvania Avenue in Washington, D.C.

9 I'm Chairman Marty Castro. Commissioners  
10 who are present at the meeting are myself, Commissioner  
11 Heriot, Commissioner Timmons-Goodson, Commissioner  
12 Narasaki and Commissioner Kladney

13 Commissioners Kirsanow, Achtenberg and  
14 Yaki are participating by phone. A quorum of the  
15 commissioners is present.

16 Is the court reporter present?

17 THE COURT REPORTER: Yes.

18 CHAIRMAN CASTRO: He is. And is the Staff  
19 Director present?

20 STAFF DIRECTOR SALLO: Present.

21 CHAIRMAN CASTRO: All right. So, the meeting  
22 will now come to order. The first item is the Approval  
23 of the agenda.

24 But before I proceed to that, I wanted to  
25 do two things. One, provide the floor to our Staff

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1 Director to speak to us about a loss in the family of  
2 the U.S. Civil Rights Commission that occurred last  
3 week. And then I'll have a few remarks thereafter.  
4 And then we'll move on to the approval of the agenda and  
5 amendments that I know will be made to this morning's  
6 agenda.

7 Madam Staff Director.

8 **I. REMARKS REGARDING LOSS OF LILLIAN DUNLAP**

9 STAFF DIRECTOR SALLO: Thank you, Chairman  
10 Castro. At the end of last week the Commission lost one  
11 of its dear employees, Lillian Dunlap, who worked in the  
12 Office of the General Counsel.

13 She had worked there for several years.  
14 She had worked under the guidance of several general  
15 counsels. And at times, did extensive work for Kim  
16 while Kim was our acting staff director.

17 Throughout those changes and the pressures  
18 of the job, she always rose to the occasion. She was  
19 an excellent editor, truly enjoyed doing that type of  
20 work.

21 She was strong-willed, as we all know. But  
22 if you really got to know Lillian, she had a heart of  
23 gold. And if you needed any assistance, she was always  
24 there ready, willing and able to help you.

25 If you were having a bad day, Lillian had

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1 a bad day with you. She will truly be missed. She was  
2 a quiet and a very private woman, but cared for by staff  
3 here.

4 And at this point in time, I know that folks  
5 were inquiring as to whether a service will be done by  
6 her family, and they will not be holding a service.

7 And so, at this point in time what I plan  
8 on doing is getting a plaque done, a memorium plaque.  
9 And hopefully we can hang that in the hallway near where  
10 she used to sit.

11 And perhaps at that point in time once we're  
12 hanging it up, we could all join together and just say  
13 a few kind words for her.

14 CHAIRMAN CASTRO: Thank you, Madam Staff  
15 Director. I don't know if anyone else wants to say a  
16 few words about Lillian before we move on?

17 COMMISSIONER HERIOT: Mr. Chairman.

18 CHAIRMAN CASTRO: Yes.

19 COMMISSIONER HERIOT: I just wanted to add  
20 that I thought Lillian was a wonderful woman. Always  
21 willing to work.

22 I found her very helpful. Very polite.  
23 And I will miss her.

24 CHAIRMAN CASTRO: Thank you. Thank you  
25 all. And, again, we will keep you posted as to the

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1 memorial plaque and we'll do something special around  
2 that. So, she will be missed.

3 **II. REMARKS BY CHAIRMAN CASTRO**

4 CHAIRMAN CASTRO: I wanted to just say a  
5 couple of words before we get into the formal program.  
6 For Commissioner Achtenberg and I, next month will be  
7 four years since President Obama appointed us to this  
8 commission. And we have been honored to serve and  
9 continue to serve.

10 And reflecting on the things that have been  
11 happening in the United States just over the last two  
12 weeks, issues of Garner and Brown and conditions of  
13 police interactions with minority communities.

14 And even as we look back a few more weeks  
15 we see cases involving Muslim Americans and the issues  
16 of sexual assault in the U.S. military. And just last  
17 week in the news another 12-year-old committed suicide  
18 because of LGBT bullying.

19 These are all issues that our commission  
20 has had the fortune and the commitment to address over  
21 the last few years, and there are many more that we need  
22 to address going forward.

23 And I think as we reflect on what we need  
24 to do certainly over the next year as we are poised to  
25 begin calendar year 2015, although we are now in our

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1 fiscal year and we're hoping that we'll get some funding  
2 soon to continue the work that we're doing, I think it's  
3 important for us to reflect on the work we do, but also  
4 on how we do it and who counts on us to do it.

5 This morning I received a text from a dear,  
6 old friend and it said, "In the sky there is no  
7 distinction between east and west. People create  
8 distinctions out of their own minds and then believe  
9 them to be true." It's a statement by Buddha.

10 And I think a lot of what we're seeing in  
11 America today are created distinctions that we have put  
12 upon ourselves that divide us whether what's going on  
13 in Ferguson, whether what we saw when we went down to  
14 Orlando on the Stand Your Ground hearings and what the  
15 Arab and Muslim American community is raising right now  
16 about the renewed racial profiling lines.

17 These are all false distinctions that we as  
18 humans have created for us. And I'm glad that in  
19 particularly the last few weeks, but also in the last  
20 four years, we as a commission have come together in a  
21 bipartisan fashion not always agreeing on everything,  
22 but certainly moving forward in as agreeable a manner  
23 as this commission has had in a long time.

24 And as we face 2015 and as we face renewed  
25 issues, this commission needs to be engaged. This

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1 commission needs to be heard. This commission needs to  
2 once again be the nation's conscience on Civil Rights  
3 issues.

4 So, when matters like those that have been  
5 happening the last few weeks occur, we are not an  
6 afterthought, we are the first in line. Because not  
7 only are the people who are the victims of these  
8 challenges that are being faced in the country relying  
9 on us, our communities are relying on us and our children  
10 and our grandchildren are looking to what work we're  
11 going to do today to make their lives better.

12 So, even today we have a number of items  
13 that are on the agenda and that will be added to the  
14 agenda that are timely matters. And we will continue  
15 to try to address those and we have to figure out the  
16 best and fastest and most efficient way to do it, but  
17 also the way to do it in the most united fashion that  
18 we can given our different points of view and  
19 perspectives.

20 So, I'm excited about the opportunities  
21 that face us today and in the weeks and months ahead,  
22 and I look forward to continuing as we start the new year  
23 to working with each and every one of you.

24 And I also want to thank the staff starting  
25 with our Staff Director, but on through our entire staff

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1 not only here, but in our regional offices for all the  
2 work that they've been doing this year, 2014, to help  
3 us make the Commission once again what it has always  
4 been, as I said, the nation's conscience on Civil  
5 Rights.

6 I know we face challenges financial and  
7 otherwise, but everyone has risen to the occasion. And  
8 as chairman, I just want you to know that I, and I know  
9 that -- I will speak for the Commissioners on this, we  
10 recognize and appreciate the work of all of our staff  
11 as members of our State advisory Committee who do this  
12 on a volunteer basis. So, thank you.

13 Madam Staff Director.

14 STAFF DIRECTOR SALLO: Sorry to follow up  
15 with this, but I just want to advise all the  
16 Commissioners that today we are actually testing our  
17 live stream services.

18 CHAIRMAN CASTRO: Oh, now you tell me. I  
19 should have been looking at the camera. Thank you.  
20 And that's another important step for us is to be able  
21 to share the work that we're doing here not only with  
22 the individuals in the room or those who happen to phone  
23 call in, but those who may be able to watch us on this  
24 thing called the internet.

25 So, Commissioner Heriot.

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1 COMMISSIONER HERIOT: I just seek  
2 clarification. When you say "testing," is it actually  
3 live streaming, or we're --

4 STAFF DIRECTOR SALLO: If you were to go in  
5 the next room, you could actually see us on the --

6 COMMISSIONER HERIOT: Can people elsewhere  
7 see us?

8 COMMISSIONER KIRSANOW: Yes, this is  
9 Kirsanow. I can see you all and this is a great feature.  
10 Everyone looks so distinguished and it's a good thing  
11 I'm not there to mar the proceedings.

12 (Laughter.)

13 CHAIRMAN CASTRO: I bet you wish you were  
14 here now, don't you?

15 COMMISSIONER KIRSANOW: No. Chairman  
16 Castro looks so distinguished. My goodness.

17 (Laughter.)

18 COMMISSIONER KIRSANOW: Is there any  
19 ability to Skype with the Commissioners that aren't  
20 there?

21 STAFF DIRECTOR SALLO: Not today. We have  
22 a portable machine now that we can wheel, but that  
23 service needs -- oh, I'm sorry. My apologies.

24 Not today. In the future, because we do  
25 have a portable system, but it needs to be set up in the

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1 room. So, it won't be done any time in the next --  
2 sorry. I'm being told. Give me a second.

3 CHAIRMAN CASTRO: Okay. Maybe.

4 STAFF DIRECTOR SALLO: But it's never Skype  
5 though.

6 (Comments off record.)

7 STAFF DIRECTOR SALLO: Okay. So, yes, we  
8 will be able to do it, but we can't use Skype due to  
9 federal regs. So, we do have a system in place. And  
10 once the wiring is checked out within here, then we can  
11 start using that as well.

12 COMMISSIONER HERIOT: I don't want to sound  
13 too down-market here, but, like, can we like have a  
14 Facebook page that would allow us to say, okay, there's  
15 a meeting going on, so people could know --

16 STAFF DIRECTOR SALLO: So, Jason and Lenore  
17 have worked to come up with a prototype for our Facebook  
18 page. We just have to ensure at this point in time  
19 what's left is to ensure that we're -- that all the  
20 federal guidelines are being met before it can go live.  
21 So, yes, we would be doing that as well.

22 CHAIRMAN CASTRO: I imagine this is one of  
23 the items on our strategic plan. So, we're moving  
24 ahead.

25 COMMISSIONER HERIOT: Facebook?

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1 CHAIRMAN CASTRO: No. Well, use of social  
2 media and technology.

3 COMMISSIONER HERIOT: I guess that's the  
4 term that makes it sound more --

5 CHAIRMAN CASTRO: Dignified.

6 (Laughter.)

7 STAFF DIRECTOR SALLO: So, we've already  
8 launched a Twitter account through the RPCU Chief. And  
9 so, when they've had briefings, he's actually Tweeted  
10 out information through the Twitter account and it's  
11 been well-received.

12 And staff has been given a manual on how to  
13 address social media and do the press releases and come  
14 up with statements. So, we're slowly gearing up to go  
15 full force.

16 COMMISSIONER HERIOT: Can the Commissioners  
17 get a copy of that manual so we know what to do with  
18 social media, too?

19 STAFF DIRECTOR SALLO: Yes.

20 CHAIRMAN CASTRO: And let me also suggest  
21 before the meeting is over if you could find out the  
22 Twitter handle for that and we could share it not only  
23 with the Commissioners, but with our viewing and  
24 listening audience?

25 STAFF DIRECTOR SALLO: I'll reach out to

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1 David.

2 CHAIRMAN CASTRO: All right. Thank you.

3 COMMISSIONER KLADNEY: Mr. Chairman.

4 CHAIRMAN CASTRO: Yes.

5 COMMISSIONER KLADNEY: I'd like to thank the  
6 director and the staff that's worked on this. I know  
7 it's very important.

8 I've been on the Commission  
9 three-and-a-half years and I think it's about time that  
10 we did this and got it accomplished. And I think it will  
11 be a big help for the Commission and its visibility.

12 CHAIRMAN CASTRO: I agree. Thank you.

13 STAFF DIRECTOR SALLO: So that everyone  
14 knows, the briefing that will take place on January 30th  
15 as previously indicated, it will be live streamed.

16 And so, we will send out the link two weeks  
17 prior to that. And it will also be on our press release  
18 so that folks that want to view the actual briefing, they  
19 can see the link on the press release. And they can log  
20 in from their computer.

21 COMMISSIONER HERIOT: If it's announced on  
22 Facebook and then all of us send it out again, a lot more  
23 people will actually see it who we know are interested  
24 in it.

25 STAFF DIRECTOR SALLO: I will send it out,

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1 yes.

2 CHAIRMAN CASTRO: Great. Thank you.

3 (Comments off record.)

4 CHAIRMAN CASTRO: And just one point of  
5 personal privilege before I go on to the agenda, I just  
6 want to acknowledge that my sons, Nez and Maximo, and  
7 their mom are in the room today. So, I know people will  
8 be nice to me as a result, right?

9 (Laughter.)

10 **III. APPROVAL OF AGENDA**

11 CHAIRMAN CASTRO: All right. So, we move on  
12 now to the approval of the agenda. I move that we  
13 approve the agenda.

14 Is there a second? There will be a second,  
15 and then we'll do the amendments.

16 COMMISSIONER TIMMONS-GOODSON: All right.

17 CHAIRMAN CASTRO: So, Commissioner Heriot.

18 COMMISSIONER TIMMONS-GOODSON: I will  
19 second.

20 CHAIRMAN CASTRO: Okay. Are there any  
21 amendments?

22 COMMISSIONER TIMMONS-GOODSON: Mr. Chair, I  
23 would move that we amend the agenda --

24 CHAIRMAN CASTRO: Your mic was on, but you  
25 just didn't have it close enough.

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1                   COMMISSIONER TIMMONS-GOODSON: I'll get it  
2 right. Mr. Chair, I move at this time that we amend the  
3 agenda so as to allow us consideration of sending a  
4 letter urging an independent investigation into a  
5 situation in North Carolina.

6                   CHAIRMAN CASTRO: Okay. What I'm going to  
7 do, I know there's a number of these. I'm going to take  
8 them all at once.

9                   Do we have a second on that motion?

10                  COMMISSIONER KLADNEY: Yes, I'll second.

11                  CHAIRMAN CASTRO: Okay. I also need to make  
12 a motion to amend -- actually, Commissioner Heriot, why  
13 don't you go first. Do you have a motion?

14                  COMMISSIONER HERIOT: I'm concerned about  
15 the procedure here.

16                  CHAIRMAN CASTRO: Do you want to vote each  
17 one individually?

18                  COMMISSIONER HERIOT: Aren't we supposed  
19 to? I mean, isn't that the way Roberts Rules would have  
20 it? Because otherwise it gets all mixed up.

21                  CHAIRMAN CASTRO: Well, I know we've done it  
22 before en masse, but it could be that not everyone may  
23 support each one of these.

24                  So, maybe we should vote them in the --

25                  COMMISSIONER HERIOT: Well, we could move

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1           them as a package and then have one vote.

2                   CHAIRMAN CASTRO: That's what I'm seeking to  
3 do. Okay. So, then we'll have another amendment.

4                   MS. HEPLER: Are you planning to do it -- are  
5 you saying you're going to put everything altogether and  
6 then vote? But what if people want some and not the  
7 other?

8                   COMMISSIONER HERIOT: That's the way it is  
9 with every motion. People want some, and not the other.  
10 That's what's called compromise, yes.

11                   MS. HEPLER: I'm saying the --

12                   COMMISSIONER HERIOT: But that's what  
13 compromise is all about.

14                   MS. HEPLER: So, it's going to be a package  
15 deal? That's what I'm just trying to find out.

16                   CHAIRMAN CASTRO: That's what I'm trying to  
17 do.

18                   COMMISSIONER HERIOT: Well, why don't we  
19 like move them all. How many are there?

20                   CHAIRMAN CASTRO: I've got on my list here  
21 one, two, three, four, five. They are mostly minor  
22 matters, but there are a couple letters that we want  
23 folks to take a look at.

24                   And then there's an approval of the  
25 notational vote that we conducted on the Ferguson

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1 letter.

2 STAFF DIRECTOR: It's just putting it on the  
3 record.

4 CHAIRMAN CASTRO: Putting it on the record.  
5 I'm sorry. It's not a vote on it. So, let's go through  
6 them. And then if there's an issue, we'll act  
7 accordingly.

8 So, I'm going to make a motion to amend the  
9 agenda to allow me to read into the record the specifics  
10 of the notational vote that occurred on November 25th,  
11 2014, regarding the Commission's statement on the  
12 Ferguson Grand Jury results.

13 PARTICIPANT: I'll second it.

14 CHAIRMAN CASTRO: Okay. Commissioner  
15 Heriot, you have the -- I think you wanted us to take  
16 a look at a field briefing paper?

17 COMMISSIONER HERIOT: Yes. I would like to  
18 move that the Commission conduct a -- I guess we would  
19 call it a "field briefing," but this is in conjunction  
20 with an already pending --

21 CHAIRMAN CASTRO: Right.

22 COMMISSIONER HERIOT: -- sexual  
23 harassment report that would allow us to look into the  
24 situation at UVA that was reported in Rolling Stone  
25 Magazine back in November.

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1 CHAIRMAN CASTRO: Okay.

2 COMMISSIONER HERIOT: And that that would  
3 become part of our sexual harassment report.

4 CHAIRMAN CASTRO: Okay. So, we have a  
5 second on that?

6 COMMISSIONER KIRSANOW: Kirsanow, second.

7 CHAIRMAN CASTRO: Okay. Commissioner  
8 Kladney, you have a briefing paper you'd like us to look  
9 at?

10 COMMISSIONER KLADNEY: I'd like you, the  
11 Commission, to consider a field briefing paper on  
12 policing practices and prosecution of police, deadly  
13 force -- abuse of deadly force.

14 COMMISSIONER HERIOT: I second that.

15 COMMISSIONER KLADNEY: Thank you.

16 CHAIRMAN CASTRO: We have a motion on the  
17 business meeting for January. Who wants to make that  
18 motion?

19 I'll make a motion that we discuss the vote  
20 to hold the business meeting on January 29th right  
21 before our hearing, a briefing on immigration.

22 COMMISSIONER KLADNEY: I'll second.

23 CHAIRMAN CASTRO: Okay. And then also a  
24 discussion and vote on the Commission statement  
25 regarding the updated DOJ profiling guidelines.

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1 COMMISSIONER KLADNEY: I'll second it.

2 CHAIRMAN CASTRO: Okay. So, now we have a  
3 number of amendments. Are there any further  
4 amendments?

5 (No response.)

6 CHAIRMAN CASTRO: Hearing none, then what  
7 we'll do is vote to approve the agenda as amended. I'll  
8 take since there's a number of items here --

9 COMMISSIONER HERIOT: This is not Roberts  
10 Rules of Order at all.

11 CHAIRMAN CASTRO: You want to vote on each  
12 of them individually?

13 COMMISSIONER HERIOT: I can move that we  
14 consolidate all five of those proposals and someone can  
15 second that. And then we can vote on that motion, if  
16 that's what you want to do.

17 CHAIRMAN CASTRO: The Commissioner has made  
18 a motion.

19 COMMISSIONER KLADNEY: No, I think we ought  
20 to vote on them individually.

21 CHAIRMAN CASTRO: Individually? All  
22 right. Then I'll take them individually and I'm going  
23 to do a roll call vote just so that I have -- because  
24 obviously there's folks who want to vote for or against  
25 some of these.

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1           So, let me -- on the first item which is  
2 Commissioner Timmons-Goodson's motion to examine the --

3           COMMISSIONER HERIOT: I just want to  
4 clarify. We're just voting on whether or not to put  
5 this on the agenda at this point.

6           CHAIRMAN CASTRO: To amend the agenda,  
7 that's all. We're not --

8           COMMISSIONER HERIOT: We're not actually  
9 talking about the issues.

10          CHAIRMAN CASTRO: This is just agenda.

11          COMMISSIONER KLADNEY: I'm sorry. I  
12 thought we were talking about voting on them  
13 individually.

14          COMMISSIONER HERIOT: No.

15          CHAIRMAN CASTRO: No, we're talking about --

16          COMMISSIONER HERIOT: Just putting them on  
17 the agenda right now.

18          COMMISSIONER KLADNEY: All right.

19          COMMISSIONER HERIOT: I move that we amend  
20 the agenda for all of these six things.

21          COMMISSIONER KLADNEY: I second that.

22          CHAIRMAN CASTRO: Is there a second to that  
23 -- okay. Subject to that amendment, are there -- is  
24 there a motion?

25                 On the motion to approve the agenda, all

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1 those in favor say "aye."

2 GROUP RESPONSE: Aye.

3 CHAIRMAN CASTRO: Any opposed? Any  
4 abstentions? Okay. It unanimously passes. And what  
5 we'll do then is we'll at the beginning of program  
6 planning -- actually, we'll do it at the end of program  
7 planning. So, our next item on the agenda --

8 COMMISSIONER HERIOT: No, we now have to  
9 approve the agenda.

10 CHAIRMAN CASTRO: We just did.

11 COMMISSIONER HERIOT: No, we just approved  
12 the amendment.

13 CHAIRMAN CASTRO: All right. All in favor  
14 of the agenda say "aye."

15 GROUP RESPONSE: Aye.

16 CHAIRMAN CASTRO: All opposed. Any  
17 abstentions?

#### 18 IV. PROGRAM PLANNING

19 CHAIRMAN CASTRO: The first item on the  
20 agenda as amended is the program planning. We now have  
21 about eight items on that agenda.

22 So, the first is a review and vote on the  
23 2015 Statutory Enforcement Report Discovery Plan.  
24 Madam Staff Director, do you want to handle that?

25 STAFF DIRECTOR SALLO: The plan has been

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1 circulated to the Commissioners. The Commissioners at  
2 this point in time, if you have any additions or  
3 questions on the matter at hand or any corrections? And  
4 then the Commissioners would have to vote to adopt.

5 CHAIRMAN CASTRO: Are there any questions?

6 COMMISSIONER HERIOT: I'm sorry.

7 CHAIRMAN CASTRO: Commissioner Heriot.

8 COMMISSIONER HERIOT: I just need to look at  
9 something for a minute.

10 STAFF DIRECTOR SALLO: Absolutely.

11 (Pause.)

12 CHAIRMAN CASTRO: And those commissioners  
13 who are on the phone if you do want to ask a question,  
14 just let me know so I can hear you and put you in queue.

15 (Pause.)

16 COMMISSIONER HERIOT: Mr. Chairman.

17 CHAIRMAN CASTRO: Yes, Commissioner Heriot.

18 COMMISSIONER HERIOT: I think on the  
19 discovery plan I have a couple of minor concerns that  
20 I think we can talk about after, you know.

21 STAFF DIRECTOR SALLO: Okay. Sure.

22 COMMISSIONER HERIOT: Just things like I  
23 noticed in the original concept paper there was a  
24 discussion of the possibility that some of these private  
25 corporations running prisons might, you know, be

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1 greater problems, or lesser problems. I don't know,  
2 but I thought that we need some specific focus on that  
3 and a couple of other minor things.

4 I would like to say generally, though, that  
5 I have not been very happy over the last seven years with  
6 the discovery plans because they're not detailed  
7 enough.

8 And I'm not saying anything in particular  
9 about this one. What I'm saying is that we have had some  
10 reports in the past where I think things went seriously  
11 awry because the specifics of the discovery plan, you  
12 know, contain the seeds of the destruction of the  
13 report.

14 An example of this would be the Religious  
15 Liberties Report that we did some time ago where we had  
16 social scientists completely misunderstanding what  
17 court opinions are and how they're not a cross-section  
18 of decisions, because they're focused on those cases  
19 where a Motion for Summary Judgement or a Motion to  
20 Dismiss was plausible and, hence, in a more typical  
21 case, settled and there was no court opinion.

22 And the social scientists involved didn't  
23 understand that and it meant the, you know, the core of  
24 the report was flawed.

25 And, you know, had I seen it early on, I

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1 could have pointed that out. And instead like --

2 STAFF DIRECTOR SALLO: Well --

3 COMMISSIONER HERIOT: -- it was too late by  
4 the time it came to me.

5 STAFF DIRECTOR SALLO: -- it's been  
6 redrafted and will hopefully be recirculated to  
7 everyone by the end of this calendar year. And  
8 hopefully you'll be happy with the rewrite, because it  
9 hasn't been voted on yet.

10 COMMISSIONER HERIOT: I'm talking about  
11 like a report from seven years ago.

12 STAFF DIRECTOR SALLO: Oh. Oh, okay.

13 COMMISSIONER HERIOT: Yes.

14 CHAIRMAN CASTRO: Yes, it's not our fault.  
15 It's our predecessors.

16 COMMISSIONER HERIOT: Not your fault. Not  
17 your fault, Madam Staff Director.

18 STAFF DIRECTOR SALLO: Okay.

19 COMMISSIONER KLADNEY: Now, there is a long  
20 memory.

21 COMMISSIONER HERIOT: Absolutely. And I  
22 really want to make sure that with the discovery that  
23 we're on top of this as it unfolds.

24 So, when we get a draft of the actual  
25 interrogatories, I'd appreciate that if you'd send that

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1 out to the Commissioners.

2 STAFF DIRECTOR SALLO: Sure.

3 COMMISSIONER HERIOT: And like if we see a  
4 problem, we can hit the panic button then instead of like  
5 six months later when it's too late.

6 STAFF DIRECTOR SALLO: Yes, ma'am. Will  
7 do. Okay.

8 CHAIRMAN CASTRO: Thank you.

9 STAFF DIRECTOR SALLO: Thank you.

10 CHAIRMAN CASTRO: If there are no further  
11 comments or questions on the discovery plan and  
12 timeline, is there a motion to accept it?

13 COMMISSIONER KLADNEY: Yes, I'll make a  
14 motion.

15 COMMISSIONER ACHTENBERG: So moved.

16 COMMISSIONER KLADNEY: I'll make a motion.

17 CHAIRMAN CASTRO: Okay. And, Commissioner  
18 Achtenberg, you'll second?

19 COMMISSIONER ACHTENBERG: Second.

20 CHAIRMAN CASTRO: Okay. Commissioner  
21 Heriot, how do you vote?

22 COMMISSIONER HERIOT: I abstain on the  
23 ground like I want to wait to see when things get a little  
24 bit more clear.

25 CHAIRMAN CASTRO: Commissioner

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1 Timmons-Goodson, how do you vote?

2 COMMISSIONER TIMMONS-GOODSON: Yes.

3 CHAIRMAN CASTRO: Commissioner Narasaki,  
4 how do you vote?

5 COMMISSIONER NARASAKI: Because I worked on  
6 some of these issues, I will have to recuse myself from  
7 this vote.

8 CHAIRMAN CASTRO: Okay. So, I'll count you  
9 as an abstention. Commissioner Kladney, how do you  
10 vote?

11 COMMISSIONER KLADNEY: Yes.

12 CHAIRMAN CASTRO: Commissioner Achtenberg,  
13 how do you vote?

14 COMMISSIONER ACHTENBERG: Yes.

15 CHAIRMAN CASTRO: Commissioner Yaki, how do  
16 you vote?

17 COMMISSIONER YAKI: Aye.

18 CHAIRMAN CASTRO: Commissioner Kirsanow,  
19 how do you vote?

20 COMMISSIONER KIRSANOW: Yes.

21 CHAIRMAN CASTRO: And I vote yes. The  
22 motion passes with one, two, three, four, five, six  
23 yeases and two abstentions.

24 Okay. So, we will now -- we had scheduled  
25 for today a discussion and vote on updating select

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1 commission reports.

2 I know that what held it up at the last  
3 meeting was that we did not yet have a final budget. We  
4 don't have a -- do we have a final budget now?

5 STAFF DIRECTOR SALLO: We don't have a final  
6 budget, but the number is 9.2 million. So, the House  
7 voted last night. We're waiting for the Senate, but  
8 that is the number.

9 CHAIRMAN CASTRO: Okay. So, it looks like  
10 we at least know what we're going to get for sure, or  
11 can that still change?

12 STAFF DIRECTOR SALLO: Well, I don't believe  
13 it can still change. But once we receive the final  
14 number, then I will put together the budget, circulate  
15 it to the Commissioners so you know where we stand and  
16 what line items can be covered by the budget.

17 CHAIRMAN CASTRO: Okay.

18 STAFF DIRECTOR SALLO: Then we can have a  
19 discussion in January.

20 CHAIRMAN CASTRO: So, that's what I would  
21 suggest then that for January we move this item to the  
22 January agenda where we will have the solid budget  
23 number.

24 And what I would also ask commissioners, I  
25 know some commissioners have indicated some of the

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1 reports they'd like.

2 I think Commissioner Narasaki and her staff  
3 put together a nice little summary of what they're  
4 interested in and why.

5 So, I think it would be helpful to our  
6 deliberations that if each commissioner who has a topic  
7 from our prior reports that we would like to revisit,  
8 that they prepare a similar brief summary of why and  
9 circulate that to the Staff Director two weeks prior to  
10 the January meeting.

11 The Staff Director will then circulate that  
12 to all commissioners so that we can come into January  
13 with detailed information that will help our  
14 discussion.

15 And of course the final budget will be in  
16 hand and the Staff Director can also tell us based on  
17 that budget how many of these we can do, and how many  
18 of our briefings, standard briefings we can do so that  
19 we can measure it all.

20 Commissioner Kladney, then Commissioner  
21 Narasaki, then the Staff Director.

22 COMMISSIONER KLADNEY: Mr. Chairman, I  
23 think that's a wonderful idea.

24 CHAIRMAN CASTRO: Thank you.

25 COMMISSIONER KLADNEY: But my concern is

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1 when we talk about updating reports, is shouldn't we  
2 also ask the Commissioners who submit for updates how  
3 they propose to update the report?

4 Because I think there's numerous ways it  
5 can be done and some more efficient than others --

6 CHAIRMAN CASTRO: Right.

7 COMMISSIONER KLADNEY: -- rather than  
8 holding all new hearings or --

9 CHAIRMAN CASTRO: Oh, absolutely. In fact,  
10 the Staff Director and I have talked about that. And  
11 I'm sure that that's what she's going to mention in her  
12 remarks.

13 So, I'll have Commissioner Narasaki make  
14 her statement, and then Staff Director can explain the  
15 various forms of updating that we might want to  
16 consider.

17 COMMISSIONER KLADNEY: Thank you, Mr.  
18 Chair.

19 CHAIRMAN CASTRO: You're welcome.

20 COMMISSIONER TIMMONS-GOODSON: I was just  
21 going to make the motion that supports your suggestion.

22 CHAIRMAN CASTRO: Okay. Well, hold a  
23 second while -- well, you can make the motion or we can  
24 use it to discuss, however, either way, but let's hear  
25 from the Staff Director.

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1                   STAFF DIRECTOR SALLO: Irrespective of the  
2 fact that we don't have the final budget, we always allot  
3 out of the gate for five briefings every fiscal year.  
4 So, then contingent upon all the other outstanding  
5 things that we need to accomplish, we can see if we can  
6 accommodate an additional briefing or field briefing.

7                   But at the very minimum, there are some  
8 publications -- I circulated the catalog of  
9 publications from April of 2013. And some of the  
10 documents that we have issued, they can easily be  
11 updated just by staff doing the research and updating  
12 the reports. And they don't necessarily require  
13 briefings.

14                   I had not seen the concept paper that was  
15 submitted for the policing practices, but I just glanced  
16 through it. And right in there you've already included  
17 reference to three previous publications that we have  
18 that fall in line with this concept paper.

19                   So, that's another way that we can update  
20 previous publications by incorporating those into any  
21 upcoming briefings as well.

22                   And as we move forward, perhaps we as a  
23 unified body can get together and come up with ideas on  
24 how we can become a bit more efficient in updating the  
25 documents while using the staff that we have.

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1 CHAIRMAN CASTRO: Okay. Commissioner  
2 Narasaki.

3 COMMISSIONER NARASAKI: So, I move that this  
4 become an agenda item at the January business meeting.

5 COMMISSIONER KLADNEY: I second that.

6 CHAIRMAN CASTRO: All right. All in favor  
7 say "aye."

8 GROUP RESPONSE: Aye.

9 CHAIRMAN CASTRO: Any opposed? Any  
10 abstentions? Okay. Thank you.

11 The next item on our program planning  
12 agenda is for me to read into the record the notational  
13 vote specifics. So, which I will do now.

14 Pursuant to Administrative Instruction  
15 AI1-7, the Office of the Staff Director submitted a  
16 notational voting package via email to commissioners on  
17 November 24th, 2014. The purpose of the notational  
18 vote was to vote on issuing a press release regarding  
19 the Ferguson, Missouri Grand Jury decision on November  
20 24th, 2014. The Commissioners were advised that the  
21 deadline for notational voting was November 25th, 2014,  
22 at 11:00 a.m. The notational vote failed as not enough  
23 commissioners voted by the stated deadline. However,  
24 on November 25th another notational voting package was  
25 sent to all commissioners via email. The deadline for

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1 voting was 4:15 p.m. on November 25th, 2014. Seven  
2 commissioners voted in favor of the press release, and  
3 one commissioner abstained. Therefore, the motion  
4 passed. Mr. Rorey Smith, the Commission's general  
5 counsel, certified the passage of the motion pursuant  
6 to AI1-7(5) and dated the certification on December 2nd,  
7 2014, end quote.

8 STAFF DIRECTOR SALLO: And the  
9 certification will remain on file in the Office of the  
10 Staff Director.

11 CHAIRMAN CASTRO: Okay. Thank you. Next  
12 item on the agenda is discussion and vote on the UVA  
13 sexual assault field briefing request. I'll hand over  
14 the microphone to Commissioner Heriot.

15 COMMISSIONER HERIOT: Does everyone have a  
16 copy of this?

17 CHAIRMAN CASTRO: I believe so.

18 COMMISSIONER HERIOT: Okay.

19 CHAIRMAN CASTRO: Yes, we circulated it to  
20 everyone.

21 COMMISSIONER HERIOT: Okay. What I'm  
22 proposing is that we supplement the sexual harassment  
23 --

24 CHAIRMAN CASTRO: Can you speak a little  
25 louder into your microphone, Commissioner.

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1 COMMISSIONER HERIOT: I'm sorry.

2 CHAIRMAN CASTRO: That's okay.

3 COMMISSIONER HERIOT: What I'm proposing is  
4 that we supplement our sexual harassment briefing with  
5 a field hearing -- or, you know, we can do it here, I  
6 suppose, since Charlottesville is not that far away --  
7 that looks into the allegations of gang rape at a  
8 fraternity at the University of Virginia.

9 This is a very, very serious allegation on  
10 a very, very serious topic. It has received a great  
11 deal of attention in the news and there are some disputes  
12 involved in this.

13 And I think this is an area where the  
14 Commission's fact-finding expertise could come in  
15 handy. So, I think that's something we need to look at.

16 CHAIRMAN CASTRO: So, you're making a motion  
17 that we consider this.

18 COMMISSIONER HERIOT: Uh-huh.

19 CHAIRMAN CASTRO: Is there a second?

20 COMMISSIONER KIRSANOW: Kirsanow second.

21 CHAIRMAN CASTRO: All right. Any  
22 discussion, Commissioners?

23 COMMISSIONER TIMMONS-GOODSON: This is  
24 Commissioner Timmons-Goodson. As I read over the  
25 proposal, it would appear that we would be called upon

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1 to have the young lady testify.

2 Is that what is anticipated?

3 COMMISSIONER HERIOT: I don't necessarily  
4 think that that would be required. I think that's  
5 something that we could work out and decide, you know,  
6 what the best way to investigate the facts here are.

7 It may be more appropriate to have her  
8 submit a statement. I don't think it would be  
9 necessarily a situation where we would want to compel  
10 her testimony.

11 There are many ways to look into this and  
12 I don't really think that at this point it would be wise  
13 to come up with an absolute plan.

14 What we want to do is find out what happened  
15 and what -- and in particular, also, what the  
16 University's response to that was.

17 CHAIRMAN CASTRO: Commissioner Kladney.

18 COMMISSIONER KLADNEY: I have a problem with  
19 just looking at one individual case. I have always  
20 thought especially since we did the sexual assault in  
21 the military and some of the responses and the  
22 statements that we got, we received from the  
23 Commissioners, that perhaps if we wanted to do a general  
24 briefing on sexual assault on campus, it would be a much  
25 better and sought after type of briefing because we

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1 would take in a series of other campuses and what went  
2 on in terms of data and those types of things.

3 I believe looking at an individual case is  
4 fraught -- I like that word -- fraught with all sorts  
5 of problems especially in light of the press issue being  
6 involved, the spectacle and the fact that basically we  
7 would be doing a trial. And I don't think that's our  
8 purpose. Thank you.

9 CHAIRMAN CASTRO: Commissioner Narasaki.

10 COMMISSIONER NARASAKI: I agree with  
11 Commissioner Heriot that it raises serious issues that  
12 would be helpful to supplement the hearing that we  
13 already had, but my feeling is that perhaps it would be  
14 better handled by asking staff to look at the case in  
15 terms of how it might -- how they might want to  
16 investigate staff to add to our report because I feel  
17 that we have very constrained resources and we already  
18 had a hearing very recently on -- related to this issue.

19 CHAIRMAN CASTRO: Any other commissioners  
20 with to comment? Commissioner Heriot.

21 COMMISSIONER HERIOT: Well, I think in  
22 response to Commissioner Kladney, this is not simply an  
23 investigation into one case and that we've, you know,  
24 got a pending report on this basic issue.

25 This particular case has received a

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1 tremendous amount of attention in the press. It is a  
2 particularly horrific case and one where, you know, a  
3 leading university has been accused of failing to deal  
4 with an important issue, failing to respond  
5 appropriately.

6 We have been in the last few weeks looking  
7 into particular cases. We have done the Ferguson  
8 letter. We have been working on a letter with regard  
9 to Eric Garner. So, I don't quite understand the notion  
10 of this is a particular case.

11 We didn't have that same attitude with  
12 other issues that have been before the Commission  
13 including the Nevada hospital case that we did our  
14 EMTALA report centered around. And that of course was  
15 Commissioner Kladney's report.

16 So, no, I don't agree with that and, you  
17 know, we're not simply looking into one case. We're  
18 looking at the high-profile case that surrounds an issue  
19 that we've already decided to look into.

20 CHAIRMAN CASTRO: Staff Director, please.

21 STAFF DIRECTOR SALLO: I just have one  
22 concern. Because it is an ongoing criminal case, I just  
23 don't see how much information they might be willing to  
24 provide us. And that's the only thing I'd like to put  
25 out there.

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1 CHAIRMAN CASTRO: Any other commissioner on  
2 the phone, perhaps, who wants to comment?

3 COMMISSIONER KIRSANOW: Mr. Chair, Kirsanow  
4 here.

5 CHAIRMAN CASTRO: Go ahead, Mr. Kirsanow.

6 COMMISSIONER KIRSANOW: Just very briefly I  
7 note that at least as I understand what is going on or  
8 the reporting there that this is not an isolated case.

9 The only allegation is that this is a  
10 systemic problem that there is a rape culture, as the  
11 term has been used, at University of Virginia and  
12 perhaps other schools, too, and that this is not an  
13 isolated incident.

14 We had a horrific crime that was committed  
15 -- another horrific crime that was committed on or about  
16 the University of Virginia campus that led to the death  
17 of a young lady.

18 And there has been numerous allegations  
19 that University of Virginia has basically kind of looked  
20 the other way not with respect to that particular case,  
21 but has not been adequately addressing what the students  
22 claim has been a widespread -- or widespread instances  
23 of rape and sexual assault.

24 CHAIRMAN CASTRO: Any other commissioners?

25 (No response.)

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1 CHAIRMAN CASTRO: Hearing none, then, what  
2 we'll do is we'll take a vote on the motion to conduct  
3 a field briefing as proposed by Commissioner Heriot.

4 Commissioner Heriot, how do you vote?

5 COMMISSIONER HERIOT: Yes.

6 CHAIRMAN CASTRO: Commissioner  
7 Timmons-Goodson, how do you vote?

8 COMMISSIONER TIMMONS-GOODSON: No.

9 CHAIRMAN CASTRO: Commissioner Narasaki,  
10 how do you vote?

11 COMMISSIONER YAKI: Commissioner Yaki. I  
12 have a clarification question.

13 CHAIRMAN CASTRO: Sorry. Yes.

14 COMMISSIONER YAKI: I thought I heard  
15 Commissioner Heriot say that there could be a field  
16 briefing or just a briefing at headquarters. I was  
17 trying to --

18 CHAIRMAN CASTRO: She did say that.

19 COMMISSIONER YAKI: I wanted to get  
20 clarification on that.

21 CHAIRMAN CASTRO: She did that and I said  
22 "field briefing." So, I think that's how the original  
23 motion was crafted, but it could be a non-field  
24 briefing.

25 Commissioner Narasaki, how do you vote?

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1 COMMISSIONER NARASAKI: No.

2 CHAIRMAN CASTRO: Commissioner Kladney, how  
3 do you vote?

4 COMMISSIONER KLADNEY: No.

5 CHAIRMAN CASTRO: Commissioner Achtenberg,  
6 how do you vote?

7 COMMISSIONER ACHTENBERG: No.

8 CHAIRMAN CASTRO: Commissioner Yaki, how do  
9 you vote?

10 COMMISSIONER YAKI: Yes.

11 CHAIRMAN CASTRO: Commissioner Kirsanow,  
12 how do you vote?

13 COMMISSIONER KIRSANOW: Yes.

14 CHAIRMAN CASTRO: And I vote no. Although,  
15 I do like Commissioner Narasaki's suggestion that staff  
16 should look into this issue and determine what, if  
17 anything, they might be able to garner from that and  
18 include in --

19 COMMISSIONER HERIOT: Then so moved.

20 CHAIRMAN CASTRO: Well, let me make my vote.  
21 So, I vote no on the motion --

22 COMMISSIONER HERIOT: Okay.

23 CHAIRMAN CASTRO: -- as crafted.

24 COMMISSIONER HERIOT: So moved.

25 CHAIRMAN CASTRO: Let me make the --

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1 COMMISSIONER HERIOT: So moved.

2 CHAIRMAN CASTRO: -- announcement on this.  
3 So, the motion fails with one, two, three, four, five  
4 nos and three yeses.

5 COMMISSIONER HERIOT: I move that we do  
6 exactly what the Chairman just said.

7 CHAIRMAN CASTRO: Is there a second?

8 COMMISSIONER YAKI: Second.

9 COMMISSIONER KIRSANOW: Kirsanow, second.

10 CHAIRMAN CASTRO: Okay. Any further  
11 discussion on that?

12 COMMISSIONER KLADNEY: Yes.

13 CHAIRMAN CASTRO: Yes, Commissioner  
14 Kladney.

15 COMMISSIONER KLADNEY: I would like to --  
16 I guess I am -- I must not be awake this morning, but  
17 what form are we talking about the staff looking into  
18 it and reporting back?

19 Is that they're going to add to a report,  
20 they're going to give us information so that we can  
21 decide later, or exactly what avenue are we taking with  
22 this motion?

23 CHAIRMAN CASTRO: I would leave that to the  
24 staff's discretion to determine whether or not this is  
25 information they want to -- I mean, if you want to amend

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1 the --

2 COMMISSIONER KLADNEY: I don't want to do  
3 anything.

4 CHAIRMAN CASTRO: Well, then you can vote  
5 no.

6 COMMISSIONER KLADNEY: I understand that,  
7 but just for clarification --

8 CHAIRMAN CASTRO: What I intended --

9 COMMISSIONER KLADNEY: -- for the rest of  
10 the Commissioners --

11 CHAIRMAN CASTRO: Sure. What I understood  
12 Commissioner Narasaki to say and what I intended through  
13 my inadvertent motion was that our staff take a look at  
14 the issue at UVA and determine whether or not there's  
15 information there that could be included in the report  
16 that is based on the briefing that we conducted.

17 COMMISSIONER HERIOT: What I would like to  
18 see is for the staff to actually interview witnesses and  
19 to develop the record.

20 CHAIRMAN CASTRO: That's not my intention.

21 COMMISSIONER HERIOT: Yes, but that was my  
22 motion, not yours. I'm the movant, not you.

23 CHAIRMAN CASTRO: Well, you said you were  
24 going to --

25 COMMISSIONER HERIOT: But still, I'm still

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1 the movant. So, I'm the one --

2 CHAIRMAN CASTRO: -- base the motion on  
3 what I said.

4 COMMISSIONER HERIOT: Yes. Well, you know,  
5 I'm now, you know, my motion now --

6 CHAIRMAN CASTRO: Okay.

7 COMMISSIONER HERIOT: -- is to interview  
8 witnesses, develop the record on what happened.

9 CHAIRMAN CASTRO: Thank you for the  
10 clarification.

11 Commissioner Narasaki.

12 COMMISSIONER NARASAKI: Well, I feel like it  
13 was actually initially my idea.

14 CHAIRMAN CASTRO: There we go.

15 (Laughter.)

16 COMMISSIONER NARASAKI: But it has  
17 seriously gone awry somehow. So --

18 CHAIRMAN CASTRO: So, tell us what you  
19 really meant.

20 COMMISSIONER NARASAKI: So, although it is  
21 now formally Commissioner Heriot's motion. So, of  
22 course she can make it into what she believes is  
23 appropriate.

24 My feeling is that -- my very first hearing  
25 was on the issue of Title 9 enforcement in this area.

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1 So, I do feel it's appropriate since the record is still  
2 open or since the report is still being worked on to take  
3 into account current events.

4 And so, I think it's appropriate to think  
5 about the extent to which this case or others highlight  
6 some issues that need to be somehow accounted for in the  
7 report that will be issued.

8 So, I actually felt like the Chair that I  
9 would like the staff to come back with what they might  
10 think is appropriate given our resources and the timing  
11 of the report.

12 So, I was not actually envisioning  
13 directing the staff to go down and do interviews unless  
14 that became something that was appropriate. So, that  
15 is what I'm willing to support.

16 COMMISSIONER KLADNEY: Mr. Chairman.

17 CHAIRMAN CASTRO: Yes, Mr. Kladney.

18 COMMISSIONER KLADNEY: I am getting the  
19 feeling that Commissioner Heriot is focusing in on this  
20 case with tasking the staff to go down to UVA and ask  
21 questions, do an investigation.

22 I had the feeling that Commissioner  
23 Kirsanow was talking about a more broadly-based look at  
24 UVA and the incidences that have occurred there, say,  
25 in the last 10 years or five years or whatever period

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1 of time, because we're talking in very big terms here.

2 And I'm not exactly sure -- from what I took  
3 from the motion from Commissioner Heriot is it's this  
4 case. And in that case, I oppose it. Thank you.

5 CHAIRMAN CASTRO: Any other comments from  
6 commissioners before I call for a vote?

7 COMMISSIONER ACHTENBERG: Mr. Chairman.

8 CHAIRMAN CASTRO: Who is that?  
9 Commissioner Yaki?

10 COMMISSIONER ACHTENBERG: No, it's Roberta  
11 Achtenberg.

12 CHAIRMAN CASTRO: I'm sorry, Commissioner  
13 Achtenberg.

14 COMMISSIONER ACHTENBERG: I would support a  
15 general inquiry, but the motion of the staff with the  
16 interviewing witnesses when there is an ongoing  
17 criminal investigation strikes me as probably not the  
18 use of Commission resources that I would be willing to  
19 support. So, if that's the motion, I won't support it.

20 However, if the motion is a more general one  
21 as that one by Commissioner Narasaki, that is something  
22 that I would be able to --

23 CHAIRMAN CASTRO: I think Commissioner  
24 Heriot has made clear that it's her motion and what she  
25 specifically intends of it.

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1 COMMISSIONER ACHTENBERG: No, no. I  
2 understand.

3 CHAIRMAN CASTRO: I know. So --

4 COMMISSIONER ACHTENBERG: I respect that.

5 CHAIRMAN CASTRO: I appreciate that and we  
6 respect that. And for that reason, I would vote against  
7 it as well. So, I am now going to call it for a vote.

8 Commissioner Heriot, how do you vote?

9 COMMISSIONER HERIOT: Yes.

10 CHAIRMAN CASTRO: Commissioner  
11 Timmons-Goodson, how do you vote?

12 COMMISSIONER TIMMONS-GOODSON: No.

13 CHAIRMAN CASTRO: Commissioner Narasaki,  
14 how do you vote?

15 COMMISSIONER NARASAKI: No.

16 CHAIRMAN CASTRO: Commissioner Kladney, how  
17 do you vote?

18 COMMISSIONER KLADNEY: No.

19 CHAIRMAN CASTRO: Commissioner Achtenberg,  
20 how do you vote?

21 COMMISSIONER ACHTENBERG: No.

22 CHAIRMAN CASTRO: Commissioner Yaki, how do  
23 you vote?

24 COMMISSIONER YAKI: No.

25 CHAIRMAN CASTRO: Commissioner Kirsanow,

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1 how do you vote?

2 COMMISSIONER KIRSANOW: Yes.

3 CHAIRMAN CASTRO: And I vote no. One, two,  
4 three, four, five, six nos to two yeses. The motion  
5 fails.

6 We will now move on to Commissioner  
7 Kladney's item on the potential field briefing on police  
8 brutality.

9 Commissioner Kladney, you have the floor.

10 COMMISSIONER KLADNEY: I think the paper  
11 says it pretty clearly in the front side. In the last  
12 couple of months there has been some very high-profile  
13 shootings in the minority community.

14 The one that I had proposed a month or so  
15 ago, a paper on Ferguson and staff talked to me about  
16 having the SAC in Missouri do it. And I was fine with  
17 that.

18 But when Tamir Rice, a 12-year-old boy in  
19 Cleveland was shot, I felt that it kind of rose to the  
20 Commission level a more important question which is  
21 tactics and strategies of police departments and the use  
22 of grand juries in these types of cases which tend to  
23 shield the prosecutor and the process from the public.

24 So, I embarked on writing this paper and  
25 then I submitted it to several people. They had a

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1 couple of changes. So, I put everybody's name on it as  
2 an author. And I think that that's the purpose of the  
3 paper.

4 CHAIRMAN CASTRO: So, we have a motion. Is  
5 there a second?

6 COMMISSIONER ACHTENBERG: Second.

7 CHAIRMAN CASTRO: Let's have some  
8 discussion. Anyone have any comments? Commissioner  
9 Timmons-Goodson.

10 COMMISSIONER TIMMONS-GOODSON: I don't have  
11 a lot to add to what Commissioner Kladney has written  
12 in the paper.

13 I can't recall many things more timely than  
14 this particular situation. It seems to be systemic.  
15 And while the Commission has reviewed the issue and  
16 similar issues in the past, I don't see how we can say  
17 no to this one and I endorse it wholeheartedly.

18 CHAIRMAN CASTRO: Madam Staff Director.

19 STAFF DIRECTOR SALLO: I applaud the paper.  
20 I think it's, as Commissioner Timmons-Goodson said,  
21 it's very -- it will be very well-received.

22 I do have one question. I just saw it for  
23 the first time today, but I do have a question on the  
24 panels.

25 I don't see any federal agencies that will

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1 be included in the panels. And I was wondering if there  
2 is any thought of bringing in DOJ's COPS or BJA simply  
3 because they do provide the funding for the trainings  
4 and they just released new training manuals as a result  
5 of these instances.

6 COMMISSIONER KLADNEY: I was -- I left the  
7 panels vague so that --

8 STAFF DIRECTOR SALLO: Okay.

9 COMMISSIONER KLADNEY: -- staff and other  
10 commissioners can recommend people --

11 STAFF DIRECTOR SALLO: Excellent.

12 COMMISSIONER KLADNEY: -- for witnesses.  
13 I don't think the author of a paper should delineate  
14 exactly who's coming, because then they dictate how the  
15 briefing comes out.

16 STAFF DIRECTOR SALLO: No, I appreciate  
17 that. No, but I just -- a new document just came out  
18 in November. So, I'll circulate that to everyone.

19 COMMISSIONER KLADNEY: And one more thing.  
20 I did -- and I don't know if the funds are available.  
21 And if the funds aren't available, I guess we wouldn't  
22 do a field briefing, but I would hope that we could do  
23 this up in New York.

24 STAFF DIRECTOR SALLO: It sounds like a good  
25 idea and I'll be able to tell you more after we get our

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1 budget.

2 COMMISSIONER KLADNEY: Thank you.

3 STAFF DIRECTOR SALLO: You're welcome.

4 CHAIRMAN CASTRO: All right. Any other  
5 comments or questions from commissioners?  
6 Commissioner Narasaki.

7 COMMISSIONER NARASAKI: Yes. I just wanted  
8 to add that I strongly endorse this as both topical and  
9 important.

10 The Commission did over a decade ago a very  
11 important report and I think it's more than timely to  
12 build on that report in wake of recent events.

13 CHAIRMAN CASTRO: Any other commissioners  
14 wish to comment?

15 COMMISSIONER KIRSANOW: Commissioner  
16 Kirsanow here.

17 CHAIRMAN CASTRO: Commissioner Kirsanow.  
18 Then Commissioner -- was that Yaki?

19 COMMISSIONER KIRSANOW: I'll yield to  
20 Commissioner Yaki.

21 CHAIRMAN CASTRO: Okay. Commissioner  
22 Yaki, go ahead.

23 COMMISSIONER YAKI: Thank you very much, Mr.  
24 Chair. I just wanted to say I think this is extremely  
25 important to have.

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1           And I would hope that one of the outcomes  
2           from this and they're prejudging, but I hope one of the  
3           outcomes would be the Commission actually working to  
4           create some model rules or regulations around some of  
5           the tactical issues that are raised by -- in  
6           Commissioner Kirsanow -- or Commissioner Kladney's  
7           concept paper.

8           In looking at it, I would say that -- and  
9           echo what I believe Commissioner Narasaki was saying is  
10          that there are -- parts of the concept paper override  
11          the who's guarding the guardians papers that the  
12          Commission has done twice; once in the '80s and once  
13          revisited in 2000.

14          And I would just note that in the 2000  
15          report, we were very clear on our skepticism of the  
16          ability of a prosecutor to be directly involved in the  
17          handling, investigation and charging of potential  
18          police misconduct civil right violation-type issues.

19          And we see that -- at least in my opinion  
20          I have seen that in Ferguson. And I think a lot of  
21          America has seen that with regard to Eric Garner's case  
22          in New York.

23          And I think that it's important for us for  
24          our history and for what we have done in the past and  
25          what we intend to do in the future to highlight --

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1 continue to highlight that this agency has been and has  
2 identified that as a concern for some time. And maybe  
3 we need to muscle it up a little bit in terms of this  
4 particular investigation and hearing and come out with  
5 even stronger statements regarding the position of a  
6 prosecutor as investigator and charger in these types  
7 of proceedings especially with regard to a grand jury.

8 CHAIRMAN CASTRO: Thank you, Commissioner  
9 Yaki.

10 Commissioner Kirsanow.

11 COMMISSIONER KIRSANOW: Yes. Thank you, Mr  
12 Chair. I support this as an appropriate and important  
13 use of Commission resources. The Tamir Rice situation  
14 is something that transpired not too far from my home.

15 And there had been reporting regarding the  
16 officer involved in the shooting and whether or not  
17 there had been an appropriate background check. And  
18 these are tragic circumstances that I'm hopeful it notes  
19 exploring whether changes in police procedures will  
20 reduce police shootings, ultimate shootings  
21 particularly those that resulted in between 95 to a  
22 hundred deaths of blacks each year.

23 In the process, I hope we'll also examine  
24 and induce evidence and testimony on changes in police  
25 procedures that will reduce the epidemic of between

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1 6,000 and 6,200 blacks killed each year by other blacks.

2 I also note one other reason I support this  
3 is because Commissioner Kladney promised that if I voted  
4 for Commissioner Yaki and himself, would refer to me no  
5 longer as a Klingon.

6 CHAIRMAN CASTRO: Okay. And I also think  
7 that --

8 COMMISSIONER YAKI: I was not a party to that  
9 agreement. I just want you to know.

10 CHAIRMAN CASTRO: What was that,  
11 Commissioner Yaki? You didn't agree to that?

12 (Comments off record.)

13 CHAIRMAN CASTRO: All right. Even in  
14 today's paper, Commissioner Kladney and others, there's  
15 discussion about there's no accurate count of civilians  
16 who are killed by police. Although there's a very  
17 specific, as there should be, detailed accounting for  
18 the police officers who are killed in the line of duty.

19 So, perhaps one of the side benefits of  
20 doing something like this is we can create a database  
21 that will make the work of future commissions and future  
22 local administrations better knowing exactly the scope  
23 of these sorts of situations.

24 So, any other additional comments?

25 COMMISSIONER ACHTENBERG: Mr. Chairman.

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1 CHAIRMAN CASTRO: Yes, Commissioner  
2 Achtenberg.

3 COMMISSIONER ACHTENBERG: Yes, Mr.  
4 Chairman. I support the paper as well. And in  
5 particular to the extent that the issue of implicit bias  
6 could be explored in depth looking toward the -- perhaps  
7 the opportunity for the Commission to opine on training  
8 that might be available for law enforcement personnel  
9 that might become if not mandatory, then at least  
10 identified as a best practice so that the bias issue can  
11 one day hopefully be taken off the table.

12 So, I'm very much in support of this and I  
13 think there is a lot of good work we can do both with  
14 regard to collection of statistics, as well as  
15 addressing officer training and very specifically  
16 express interest in training with regard to, among other  
17 issues, implicit bias.

18 CHAIRMAN CASTRO: Staff Director. Then  
19 Commissioner Kladney.

20 STAFF DIRECTOR SALLO: To add to that, I  
21 attended a meeting this week where they actually  
22 indicated that part of the task force that's being put  
23 together by the White House will definitely be taking  
24 a look at implicit bias training and the need for that  
25 with the police officers. So, I think that it would be

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1 timely.

2 CHAIRMAN CASTRO: Commissioner Kladney.

3 COMMISSIONER KLADNEY: I would also like to  
4 add that I think yesterday or the day before we added  
5 a footnote in our paper about police data on these  
6 shootings. And The Wall Street Journal had an article  
7 about how poorly the FBI collects data on the shootings  
8 where they collect from like 700 police departments and  
9 there's --

10 CHAIRMAN CASTRO: It's all voluntary.  
11 That's the problem.

12 COMMISSIONER KLADNEY: And there's another  
13 2500 or 3,000 police departments that do not report.  
14 So, that's something we can get into.

15 CHAIRMAN CASTRO: Yes.

16 COMMISSIONER KLADNEY: I think this paper we  
17 can actually hold a two or three-day hearing on this,  
18 but I'm sure our budget will not allow that.

19 CHAIRMAN CASTRO: No. We could do that on  
20 a lot of things, and I wish we could. We'll see.

21 So, any further discussion? If not, I'm  
22 going to call this vote.

23 COMMISSIONER YAKI: Mr. Chair.

24 CHAIRMAN CASTRO: Yes. Who is that?  
25 Commissioner --

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1 COMMISSIONER YAKI: Commissioner Yaki.

2 CHAIRMAN CASTRO: Go ahead.

3 COMMISSIONER YAKI: I just wanted to add  
4 that this is particularly important to the region in  
5 which I live. Because in 2013, a young Latino boy,  
6 13-year-old, was shot in circumstances very similar to  
7 that of Tamir Rice by a Sonoma County sheriff's deputy.

8 And, again, it was involving a pellet gun  
9 that resembled an AK-47 and there are a lot of questions  
10 about what exactly went on. But what is known is that  
11 this young boy was hit by seven shots within six seconds.

12 And this is an issue that members -- former  
13 members of the California Advisory Committee had  
14 brought to my attention. And we've been talking and  
15 working on issues such as this for some time.

16 So, I think that this is very important.  
17 And I think what will be found out is that there will  
18 be instances of this across the country and I think that  
19 will be important in the testimony as showing that the  
20 breadth of this -- this is not, you know, a -- this is  
21 an issue that spans the country from east to west, north  
22 to south.

23 And we need to take very careful attention  
24 at the issue to the -- to whether there's a  
25 disproportionate number of young minority children also

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1 who have been involved in these kinds of deadly  
2 accidents as well.

3 And as a side note, I am concerned about how  
4 our fascination and obsession with guns and gun replicas  
5 plays a large part in this. Because while we want to  
6 have better practices for police, it's also hard for  
7 police sometimes to make a quick determination. And  
8 this is something that's going to have to be part of how  
9 we address this in the investigation of this enormous  
10 market in replica weaponry that while -- that does not  
11 fire lethal bullets, but from every appearance except  
12 for certain types of proposals right now being fashioned  
13 about making them neon, putting, you know, visible  
14 stickers and decorations on them to show that they are  
15 not real guns, you know, how much of that is just simply  
16 a band-aid on the bigger problem of the gun culture that  
17 we have created in this country.

18 CHAIRMAN CASTRO: Thank you, Commissioner  
19 Yaki. And I also do want to thank Commissioner Kladney  
20 for his initial draft allowing us to add the focus on  
21 what's going on similarly in Latino communities and  
22 other communities of color.

23 So, certainly the intention here is to be  
24 broad on a topic that is touching many communities in  
25 many parts of the country.

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1                   So, with nothing further, I'm going to call  
2 this for a vote now so we can move on to our other agenda  
3 items.

4                   Commissioner Heriot, how do you vote?

5                   COMMISSIONER HERIOT: I'll vote yes.

6                   CHAIRMAN           CASTRO:           Commissioner  
7 Timmons-Goodson, how do you vote?

8                   COMMISSIONER TIMMONS-GOODSON: Yes.

9                   CHAIRMAN CASTRO: Commissioner Narasaki,  
10 how do you vote?

11                  COMMISSIONER NARASAKI: Yes.

12                  CHAIRMAN CASTRO: Commissioner Kladney, how  
13 do you vote?

14                  COMMISSIONER KLADNEY: Yes.

15                  CHAIRMAN CASTRO: Commissioner Achtenberg,  
16 how do you vote?

17                  COMMISSIONER ACHTENBERG: Yes.

18                  CHAIRMAN CASTRO: Commissioner Yaki, how do  
19 you vote?

20                  COMMISSIONER YAKI: Yes.

21                  CHAIRMAN CASTRO: Commissioner Kirsanow,  
22 how do you vote?

23                  COMMISSIONER KIRSANOW: Yes.

24                  CHAIRMAN CASTRO: And I vote yes. So, the  
25 motion passes unanimously.

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1                   Next, we will move on to a discussion of a  
2 business meeting being held on Thursday, January 29th,  
3 2015.

4                   Madam Staff Director, do you want to speak  
5 to that, or shall I?

6                   STAFF DIRECTOR SALLO: Well, I proposed  
7 January 29th in the afternoon starting at 1:00 p.m.,  
8 which would be the day before our full-day briefing.

9                   And the reason why I'm proposing that is  
10 because we do have business matters that are pending  
11 that I would like to address them that day including  
12 voting on upcoming SACs that need to be reappointed.

13                   COMMISSIONER TIMMONS-GOODSON: So moved.

14                   CHAIRMAN CASTRO: Is there a second?

15                   COMMISSIONER NARASAKI: Second.

16                   CHAIRMAN CASTRO: Any additional discussion  
17 or questions on that?

18                   (No response.)

19                   CHAIRMAN CASTRO: Hearing none, all those in  
20 favor say "aye."

21                   GROUP RESPONSE: Aye.

22                   CHAIRMAN CASTRO: Any opposed.     Any  
23 abstention.   Okay.   The motion passes unanimously for  
24 a January 29th, 2015 business meeting.

25                   Next we will have a vote --

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1 COMMISSIONER HERIOT: What time did we  
2 say?

3 CHAIRMAN CASTRO: 1:30.

4 STAFF DIRECTOR SALLO: 1:00 p.m., please.

5 CHAIRMAN CASTRO: 1:00 p.m., sorry.

6 COMMISSIONER HERIOT: 1:00 p.m.

7 CHAIRMAN CASTRO: Next on the amended agenda  
8 items is a motion by Commissioner Timmons-Goodson for  
9 consideration of a letter involving -- or requesting an  
10 independent investigation.

11 I'll turn it over to you, Commissioner.

12 COMMISSIONER TIMMONS-GOODSON: Yes. Thank  
13 you very much, Mr. Chair.

14 CHAIRMAN CASTRO: You're welcome.

15 COMMISSIONER TIMMONS-GOODSON: My fellow  
16 commissioners, I emailed a number of articles that may  
17 give you additional information to supplement my brief  
18 presentation, but like many of you I've been struck by  
19 the death of so many African Americans recently.

20 I'd like to share with you a situation in  
21 my home state of North Carolina. Lacy -- Lennon Lacy  
22 was a junior high school -- a junior in high school in  
23 a small, rural county in North Carolina and his body was  
24 discovered about mid-August hanging from a swingset in  
25 a trailer park neighborhood. It was not his home

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1 neighborhood.

2 The State Bureau of the Investigation  
3 concluded within five days that Lacy's death was a  
4 suicide, but there have been many questions that have  
5 arisen since that time.

6 The family with the assistance of the NAACP  
7 and others have gone out and conducted additional -- an  
8 additional investigation to include bringing in a  
9 forensic scientist and to try to provide additional  
10 information.

11 The family has met with the US Attorney of  
12 the Eastern District and asked that he conduct an  
13 independent investigation.

14 They have indicated a willingness to be  
15 able to accept whatever the truth is, but they have many  
16 questions about the adequacy of the investigation.

17 And so, I ask the Commission to consider  
18 sending a letter to the elected -- excuse me -- to the  
19 US Attorney expressing support and, in fact, urging him  
20 to conduct an independent investigation. I have  
21 drafted a very rough draft of a letter so stating.

22 CHAIRMAN CASTRO: So, that's your motion.  
23 Is there a second?

24 MEMBER ACHTENBERG: Second.

25 CHAIRMAN CASTRO: Discussion? Any

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1 commissioners? Questions, discussion? Commissioner  
2 Heriot.

3 COMMISSIONER HERIOT: I just want to say I  
4 haven't had time to look at this yet. So, I'm going to  
5 have to abstain on this. I might be willing to sign the  
6 letter ultimately.

7 CHAIRMAN CASTRO: Okay.

8 COMMISSIONER HERIOT: So, my abstention  
9 does not mean that I won't sign the letter. It just  
10 means I haven't looked at this.

11 CHAIRMAN CASTRO: Okay. Any other  
12 commissioners?

13 (No response.)

14 CHAIRMAN CASTRO: Hearing none, then I will  
15 take a roll call vote on this. Commissioner Heriot, how  
16 do you vote?

17 COMMISSIONER HERIOT: I abstain.

18 CHAIRMAN CASTRO: Commissioner  
19 Timmons-Goodson, how do you vote?

20 COMMISSIONER TIMMONS-GOODSON: Yes.

21 CHAIRMAN CASTRO: Commissioner Narasaki,  
22 how do you vote?

23 COMMISSIONER NARASAKI: Yes.

24 CHAIRMAN CASTRO: Commissioner Kladney, how  
25 do you vote?

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1 COMMISSIONER KLADNEY: Yes.

2 CHAIRMAN CASTRO: Commissioner Achtenberg,  
3 how do you vote?

4 COMMISSIONER ACHTENBERG: Yes.

5 CHAIRMAN CASTRO: Commissioner Yaki, how do  
6 you vote?

7 COMMISSIONER YAKI: Aye.

8 CHAIRMAN CASTRO: Commissioner Kirsanow,  
9 how do you vote?

10 COMMISSIONER KIRSANOW: I abstain for the  
11 same reasons as Commissioner Heriot. I have just  
12 received this and haven't had an opportunity to look at  
13 it. I may sign on after I've had an opportunity to  
14 consider it.

15 CHAIRMAN CASTRO: Okay. And I vote yes.  
16 So, the motion passes with one, two, three, four, five,  
17 six yeases and two abstentions. Thank you, Commissioner  
18 Timmons-Goodson.

19 COMMISSIONER TIMMONS-GOODSON: Mr. Chair.

20 CHAIRMAN CASTRO: Yes.

21 COMMISSIONER TIMMONS-GOODSON: I am  
22 certainly open to any suggestions on the letter. And  
23 I put that out there.

24 CHAIRMAN CASTRO: Okay. Thank you.

25 COMMISSIONER HERIOT: So, does that mean

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1 that the vote --

2 CHAIRMAN CASTRO: Well, actually the vote is  
3 on this letter, right? Is that what you're asking?  
4 The vote passes on the passage of this letter.

5 COMMISSIONER HERIOT: So, does that mean we  
6 can't change it at this point?

7 CHAIRMAN CASTRO: Well --

8 COMMISSIONER HERIOT: Or do we want to,  
9 like, have another motion that we can agree upon  
10 changes?

11 COMMISSIONER TIMMONS-GOODSON: Okay.

12 COMMISSIONER HERIOT: I move that the letter  
13 be subject to edits that the signing commissioners may  
14 agree upon over the course of the next few days.

15 COMMISSIONER TIMMONS-GOODSON: I second.

16 CHAIRMAN CASTRO: Okay. Any discussion on  
17 that? Did you want to say something, Madam Staff  
18 Director?

19 STAFF DIRECTOR SALLO: Well, I'll just say  
20 that I can work closely with Sheryl to get the letter  
21 out.

22 CHAIRMAN CASTRO: Okay. If no discussion,  
23 I'll just -- I will take a voice vote on that. All those  
24 in favor say "aye."

25 GROUP RESPONSE: Aye.

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1 CHAIRMAN CASTRO: Any opposed? Any  
2 abstentions? Okay. The motion passes.

3 Next we move on to the motion where I have  
4 circulated a letter on the recently released DOJ  
5 profiling guidelines.

6 In the last few days while I've been here  
7 in Washington, I've met with leaders of the Arab  
8 American/Muslim American communities and they continue  
9 -- well, they join us in being very pleased with seeing  
10 an update here. There are still some gaps that they're  
11 very concerned about.

12 In the context of meeting with them to talk  
13 about our report which was issued recently on federal  
14 civil rights engagement with Arab and Muslim American  
15 communities, this issue was coming up.

16 So, in connection with that report given  
17 our focus on and our findings and recommendations on  
18 some of these very issues, I thought it might be useful  
19 for us to both commend the Justice Department for the  
20 tremendous work its done in moving forward on this  
21 issue, but also reminding them that there are some areas  
22 which do continue to need attention.

23 The letter I circulated has, I believe,  
24 received some proposed revisions from Commissioner  
25 Narasaki and I've looked at those.

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1                   So, my motion would be to approve the letter  
2 as amended by Commissioner Narasaki. And I believe  
3 you've circulated those changes to everybody,  
4 Commissioner?

5                   Okay. So, do I have a second?

6                   COMMISSIONER TIMMONS-GOODSON: Second.

7                   CHAIRMAN CASTRO: Okay. Opening it up for  
8 discussion. Commissioner Heriot.

9                   COMMISSIONER HERIOT: I'm going to have to  
10 vote against this one. This is a very tough issue. It  
11 requires a lot of thought and I haven't sorted it all  
12 out in my mind.

13                   I don't think from what I saw -- I haven't  
14 looked at Commissioner Narasaki's edits yet, but from  
15 what I saw it didn't look like one that I could offer  
16 edits to and get myself to the point where I would be  
17 able to sign it.

18                   It is a very, very tough issue. I  
19 understand everybody's concerns. And I think that  
20 those concerns, you know, have some merit to them, but  
21 it's such a tough issue I just feel I cannot sign onto  
22 this letter or anything that short on this topic.

23                   CHAIRMAN CASTRO: Fair enough.

24                   COMMISSIONER HERIOT: It's just too  
25 complicated.

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1 CHAIRMAN CASTRO: Understood. Thank you,  
2 Commissioner Heriot. Any other comments, questions?

3 COMMISSIONER KIRSANOW: Mr. Chair,  
4 Kirsanow.

5 CHAIRMAN CASTRO: Yes.

6 COMMISSIONER KIRSANOW: Thank you, Mr.  
7 Chair. I would align myself with Commissioner Heriot's  
8 comments. I'm not going to vote against it. I'm going  
9 to abstain.

10 I would just simply note that I have not had  
11 an opportunity to even look at what DOJ has been up to  
12 with respect to the racial profiling.

13 And I would suggest we used to, as I recall,  
14 and I still think we do have an administrative  
15 instruction that either required us or at least strongly  
16 suggested that we try to introduce motions, written  
17 motions related to underlying letters and materials,  
18 things of that nature within a certain time frame.

19 I don't recall what it was. I think it was  
20 48 hours prior to a meeting so commissioners would have  
21 an opportunity to take a look at it, deliberate and maybe  
22 even discuss among themselves before voting.

23 I'm just reluctant to move forward on  
24 something that I really have not had an opportunity to  
25 examine.

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1 I understand Congress does that from time  
2 to time, from what I hear, but I'm not as swift as they  
3 are.

4 CHAIRMAN CASTRO: And I appreciate that.  
5 And, you know, as you know, Commissioner Kirsanow and  
6 others, we recently have on a couple of occasions in the  
7 last couple weeks tried to use notational voting to move  
8 on some of these time-sensitive issues. And it worked  
9 in one case. It didn't work in another.

10 And given that we have this meeting already  
11 scheduled, I think that's why we're seeing these  
12 letters, but we'll certainly go back and see if there  
13 might be a more streamlined yet more thoughtful process  
14 that would be comfortable for everybody.

15 But we did want to get these out in front  
16 of commissioners before the meeting and hopefully -- it  
17 sounds like many did have a chance to see it and maybe  
18 some didn't.

19 Any other comments?

20 COMMISSIONER ACHTENBERG: Mr. Chairman,  
21 would this be subject to non-substantive editing? Is  
22 that implicit in the agreement to adopt?

23 CHAIRMAN CASTRO: As it was in the prior  
24 motion on Commissioner Timmons-Goodson's letter, yes.

25 COMMISSIONER ACHTENBERG: All right.

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1 Thank you.

2 CHAIRMAN CASTRO: Any additional questions,  
3 comments? If not, I'll take a roll call vote on this.

4 Commissioner Heriot, how do you vote?

5 COMMISSIONER HERIOT: I'm going to vote no.

6 CHAIRMAN CASTRO: Okay. Commissioner  
7 Timmons-Goodson, how do you vote?

8 COMMISSIONER TIMMONS-GOODSON: Yes.

9 CHAIRMAN CASTRO: Commissioner Narasaki,  
10 how do you vote?

11 COMMISSIONER NARASAKI: I abstain.

12 CHAIRMAN CASTRO: Commissioner Kladney, how  
13 do you vote?

14 COMMISSIONER KLADNEY: I pass.

15 CHAIRMAN CASTRO: So, you want me to come  
16 back to you then.

17 COMMISSIONER KLADNEY: Yes.

18 CHAIRMAN CASTRO: Commissioner  
19 Achtenberg, how do you vote?

20 COMMISSIONER ACHTENBERG: YES.

21 CHAIRMAN CASTRO: Commissioner Yaki, how do  
22 you vote?

23 COMMISSIONER YAKI: Aye.

24 CHAIRMAN CASTRO: Commissioner Kirsanow,  
25 how do you vote?

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1 COMMISSIONER KIRSANOW: Abstain.

2 CHAIRMAN CASTRO: I vote yes. Commissioner  
3 Kladney, want to join the winning side?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIRMAN CASTRO: Okay. So, the motion  
6 passes with one, two, three, four, five yeses, two  
7 abstentions and a no. Two abstentions and a no.  
8 Commissioner Heriot was actually a no.

9 **V. MANAGEMENT AND OPERATIONS**

10 CHAIRMAN CASTRO: Okay. Thank you all.  
11 Now, we move on to management and operations. Madam  
12 Staff Director, is that right, or am I missing  
13 something?

14 STAFF DIRECTOR SALLO: No, you are correct.

15 CHAIRMAN CASTRO: Okay.

16 STAFF DIRECTOR SALLO: I would just ask --  
17 our Illinois SAC Chair will only be able to remain on  
18 the call until 11:00. So, perhaps we can call on him  
19 first.

20 CHAIRMAN CASTRO: Okay. So, as you know,  
21 we've been trying to do more to engage our State Advisory  
22 Committees over the last few years. Part of that  
23 engagement has been having our SAC Chairs or  
24 representatives from SACs participate at some of our  
25 briefings.

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1           Some have previously been on the phone and  
2 reported to us, some of them have even been physically  
3 here at our meetings.

4           And we have also -- some of us commissioners  
5 have attended SAC meetings back in our home states. And  
6 it's extremely important for us to be able to strengthen  
7 and expand the relationships we have with our State  
8 Advisory Committees, because they are indeed truly the  
9 eyes and ears of this Commission throughout the country.

10           They are volunteers who put time and effort  
11 into this and who are independent of us, but whose work  
12 should and does inform our work.

13           And I'm very pleased that today we've got  
14 a couple of members who we as a commission have  
15 appointed, including the first person we're going to  
16 invite to talk is James Botana who is a partner in a law  
17 firm in Chicago. Also, a dear friend and working  
18 colleague of mine. And he has become the chairman of  
19 the Illinois State Advisory Committee upon our vote  
20 recently.

21           And so, I'd love to have him present to us  
22 some of the work that the Illinois Advisory Committee  
23 is doing on the issue of immigration. James.

24           MR. BOTANA:     Good morning, everybody.  
25 My name is James Botana. I am a member of the State

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1 Advisory Committee for the State of Illinois. And I  
2 want to thank the Commission for the opportunity on  
3 behalf of the Illinois State Advisory Committee to just  
4 become engaged in the process and have an opportunity  
5 to explain and to present one of the recent projects that  
6 the State Advisory Committee has had.

7 I have been the co-chair of the Immigration  
8 Subcommittee for the Illinois State Advisory Council.  
9 And over the last couple of years we have been going  
10 through the process of convening hearings to hear from  
11 panelists and in preparing a report, which is what I'm  
12 presenting today.

13 Again, I thank you for this opportunity. I  
14 haven't had the opportunity to meet any of you in person  
15 other than Chair Castro who, as he indicated, we go back  
16 a long way. We're good friends and professional  
17 colleagues as well.

18 But I want to also thank the staff at the  
19 local office, particularly David Mussatt and Melissa  
20 Wojnaroski, for their efforts in organizing the panel  
21 discussion and keeping all of us on track, which must  
22 have felt like herding cats at times in preparing the  
23 draft of the report and incorporating the comments and  
24 suggestions from the different members of the Advisory  
25 Committee.

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1           Before you, I hope what you have is a copy  
2 of the report that's entitled "Civil Rights  
3 Implications of Comprehensive Immigration Reform in  
4 Illinois Immigrant Communities."

5           And I wanted to just briefly just address  
6 why we chose to undertake this project, what we tried  
7 to do and some of the testimony that we heard and some  
8 of the recommendations that we have as a subcommittee  
9 and as a committee as a whole.

10           What we chose to do is to focus on the impact  
11 of immigration legislation. And particularly at the  
12 time, it was Senate Bill 744, which, as we all know, did  
13 not pass. It did not go to the House and it's highly  
14 unlikely, obviously, to pass certainly in the form that  
15 it was a couple of years ago when it first came out.

16           What we chose to do is focus on the affected  
17 Senate Bill 744. And as an ongoing matter, immigration  
18 reform generally would have on immigrant communities  
19 specifically as opposed to how it would affect the  
20 population at large.

21           So, as you'll see from the report, it  
22 focuses specifically on how immigration reform,  
23 immigration reform efforts, any kind of legislation or  
24 executive action would affect what are traditionally  
25 considered parts of the immigrant community.

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1           With the understanding, of course, that  
2           again that Senate Bill 744 would not pass, I think that  
3           the subcommittee and the committee as a whole felt that  
4           some of the issues that were raised by the panelists and  
5           some of the issues that are raised in the report and some  
6           of the issues that came through in the process are issues  
7           that are going to be ongoing in terms of some of the civil  
8           rights issues and some of the impact on specific  
9           immigrant communities any kind of reform would have.

10           And we thought it was worthwhile to go  
11           forward with the project particularly after we had heard  
12           from what ended up being about 15 different panelists  
13           from the Illinois community during the hearing that took  
14           place in September of 2013. So, a little over a year  
15           ago.

16           I wanted to just go briefly over what we  
17           saw. As you'll see from the report, there were  
18           basically two broad categories that we addressed, that  
19           the panelists addressed.

20           One of them was the -- one of the broad  
21           categories was the effects of any kind of immigration  
22           reform. And, again, at the time it was mostly Senate  
23           Bill 744 in its form at the time, the kinds of impacts  
24           that it would have on administration of justice type  
25           issues.

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1           And the second part that we looked at  
2 through the panelists is the impact that Senate Bill 744  
3 immigration reforms would have on specific groups  
4 within the immigrant communities.

5           Just to go over generally some of those  
6 administration of justice concerns and impact on  
7 different group concerns, we heard quite a bit of  
8 testimony again from 15 panelists that ranged all the  
9 way from law professors to community activists and to  
10 a number of different representatives from  
11 organizations that traditionally represent a number of  
12 the immigrant communities that we were hearing about.

13           In terms of administration of justice  
14 concerns, we looked at the types of impacts that -- I'm  
15 sorry -- the type of impact that Senate Bill 744 or other  
16 efforts would have on people who were sort of in the  
17 pipeline of the process, people who were immigrants who  
18 were subjected to deportation proceedings.

19           And some of the concerns were the issue of  
20 not having the right to an attorney in a process that  
21 although is considered civil by nature, has the types  
22 of consequences that are sometimes a lot more serious  
23 than a number of other criminal proceedings.

24           And Senate Bill 744, for instance, had  
25 provisions for assigning an attorney to a particularly

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1 vulnerable population such as children or people with  
2 mental disabilities or people who -- or, I'm sorry, with  
3 children or mental disabilities, but not to others.

4           Some of the other concerns that we heard  
5 from panelists is the right to an informed defense and  
6 specifically the right for people who are in deportation  
7 proceedings to be able to look at their file and how we  
8 were hoping that the Bill would address the claims of  
9 privilege that might keep certain portions of the file  
10 from being accessed by the people in the proceedings.

11           And, again, the ongoing issue of backlog in  
12 the process and how that affects the right to a fair and  
13 speedy trial or right to fair and speedy hearing.

14           And, again, I know that these are civil  
15 proceedings and not subject to the fair and speedy trial  
16 constraints that would be subject to criminal cases,  
17 but, again, we heard testimony from a number of  
18 panelists about how these proceedings sometimes can  
19 have considerably more serious consequences in civil  
20 proceedings.

21           In terms of, again, administration of  
22 justice concerns we heard of the impact that this could  
23 have on a number of different populations such as  
24 non-citizen children, migrant and farm workers and  
25 particularly also members of the LGBT community who are

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1 immigrants.

2 And also heard quite a bit of testimony  
3 about the concerns about medical repatriation of people  
4 who are immigrants, non-citizens being repatriated,  
5 being sent back to their countries of origin when  
6 they're in the process of dealing with very serious  
7 illnesses.

8 The second broad category that we talked  
9 about that we heard testimony from was the civil rights  
10 concerns with proposed immigration law and how it  
11 affects all immigrant groups and specifically certain  
12 groups.

13 We heard quite a bit of testimony about  
14 concerns with e-Verify. Mainly, I would say a lot of  
15 the concerns were with the accuracy of the system and  
16 making sure that -- hopefully a part of the dialog is  
17 to make sure that the e-Verify system has some  
18 safeguards to ensure accuracy before it becomes a  
19 mandatory system as was proposed by Senate Bill 744 as  
20 may be proposed by any other immigration efforts, reform  
21 efforts to make sure that it's accurate because it will  
22 have dire consequences, obviously, for most employers  
23 and employees in terms of employees losing their jobs  
24 and employers not being able to have a reliable,  
25 predictable workforce.

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1           We also heard about concerns with potential  
2 misuse of e-Verify to retaliate against specific  
3 segments of the workforce.

4           We heard about -- quite a bit of testimony  
5 also from panelists about the -- any kind of -- Senate  
6 Bill 744 or any kind of immigration reform effort that  
7 would include enhancements in border security and heard  
8 testimony about how that could affect the concerns with  
9 law enforcement, racial profiling specifically with  
10 profiling of certain national origin groups or  
11 perceived or actual religious groups.

12           Heard concerns about how the increase in  
13 just the manpower of border enforcement could have also  
14 an increase in excessive use of force.

15           We heard quite a bit of, again, the next  
16 segment of the presentation dealt with the merit-based  
17 point system that was proposed by Senate Bill 744. And  
18 I think the merit-based point system in terms of both  
19 addressing family concerns and an enhanced way of  
20 addressing labor concerns is something that will  
21 probably be a part of any kind of immigration reform.

22           And we heard some interesting testimony  
23 about how the merit-based point system could have some  
24 affects on particular groups such as national origin  
25 groups because, again, it is -- it was a system, it was

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1 a bill that, again, preserves the preference for issuing  
2 immigration visas to nationals of undersubscribed  
3 countries.

4 And that by its own nature, would affect  
5 countries that are oversubscribed by just sort of  
6 keeping that very long line at the door for people from  
7 countries who want to come here and make a life in the  
8 United States.

9 We heard also about particularly when it  
10 comes time to labor preferences how that would, by its  
11 own nature, affect women more than men to the extent that  
12 in many cases because of the way that the system was set  
13 up or was proposed, it would disproportionately affect  
14 women, disproportionately affect people with  
15 disabilities and also affect people who are older  
16 because of the way that the proposal is set up, the  
17 allocation of point systems that favored people who were  
18 younger as opposed to people who are in their 30s or 40s.

19 The recommendations that we had, again, as  
20 the Chair has mentioned, we are trying to be the ears  
21 and eyes of the Commission in the State of Illinois, is  
22 to take into consideration some of these points that  
23 were raised by the panelists during the session in any  
24 kind of dialog that the Commission chooses to have about  
25 immigration reform, and considering how these types of

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1 immigration reform efforts would confront a diverse  
2 immigrant community, to make sure that the Commission  
3 in dealing with these types of issues also keep in mind  
4 a lot of the civil rights issues and a lot of the comments  
5 and a lot of the concerns that were raised by the  
6 panelists here.

7 And specifically we were informed that the  
8 Commission would have a briefing on the stay of civil  
9 rights at immigration detention facilities that's going  
10 to be held, I think, sometime in January of 2015. And  
11 that hopefully the Commission will consider some of the  
12 findings and the recommendations of this report in terms  
13 of the administration of justice and to use this as a  
14 resource to raise questions from presenters related to  
15 the issue of detention facilities for immigrants.

16 And we also know that the Commission is  
17 planning to have a briefing on examining workforce --  
18 workplace, I'm sorry, discrimination against  
19 individuals in the LGBT communities to be held sometime  
20 in March of 2015.

21 And we're hoping that the Commission will  
22 use some of the findings and some of the recommendations  
23 and some of the concerns that were raised in this report  
24 regarding immigrant LGBT members and raise questions  
25 among presenters related to those findings as well.

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1           And, again, thank you for the opportunity  
2 to both be involved in this and to present the report  
3 and some of the -- this brief summary of the report this  
4 morning.

5           CHAIRMAN CASTRO: Thank you, James. Under  
6 your leadership of the Committee that is focusing on  
7 immigration for the Illinois SAC and under the  
8 leadership of Chair Abrajano, I'm very proud of the work  
9 that your advisory committee has been doing not only on  
10 this topic of immigration, but on the issue of food  
11 deserts and religious freedom and prisons in Illinois.

12           You are an extremely active SAC. I can  
13 assure you that I am going to make sure that what you  
14 are presenting to us is utilized to the fullest extent  
15 in our January briefing.

16           And I also want to let members of the public  
17 know that by the end of the month this report of the State  
18 Advisory Committee that Mr. Botana reported on will be  
19 available on the Commission's website hopefully by the  
20 end of the month at USCCR.gov where we list and post  
21 reports not only of the Commission, but of our state  
22 advisory committees.

23           I do want to have our commissioners have an  
24 opportunity to briefly ask some questions of Mr. Botana  
25 before we go on to Chair Gonzales' report.

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1 Commissioner Kladney.

2 COMMISSIONER KLADNEY: Thank you, Mr.  
3 Chairman. My questions pretty much revolve around the  
4 e-Verify program.

5 I know it's been around for over 20 years.  
6 And I didn't have an opportunity to review your report.  
7 So, if I could just ask you a few questions if you can  
8 recall these areas, I'd appreciate it. If not, I  
9 understand, but, like, what are the accuracy problems  
10 with e-Verify?

11 What's the percentage of inaccuracy?

12 MR. BOTANA: If you could bear with me for  
13 a second while I page through that part of the report,  
14 Commissioner, the accuracy of the system is I think that  
15 generally accuracy concerns that come into any kind of  
16 system where there's a record-keeping system  
17 particularly with immigrant communities, particularly,  
18 excuse me, with names that may be foreign sounding and  
19 get transcribed in an inaccurate sort of way.

20 COMMISSIONER KLADNEY: Would that be  
21 inaccurate like transcribed by the employer, or  
22 transcribed by the system, or both?

23 MR. BOTANA: It could be with both. Again,  
24 we're talking about a system that uses Social Security  
25 numbers as a way of cross-checking. We're talking

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1 again about a number of numbers that are being  
2 transcribed.

3 One error in one specific -- an error in one  
4 number could result in a finding of a mismatch with a  
5 Social Security number.

6 People who hyphenate their names, people  
7 who sometimes -- again, I know in my community, in the  
8 Latino community the issue of using both the father's  
9 name and the mother's name and sometimes that being  
10 transposed incorrectly with the Social Security Office  
11 or with any other agency may result in ultimately some  
12 kind of a mismatch finding.

13 COMMISSIONER KLADNEY: Well, we find that on  
14 birth certificates all the time in my clinic.  
15 Sometimes they use the hyphenated name as the last name,  
16 sometimes they use the first name as the middle name and  
17 the birth certificates always wind up having to be  
18 changed by the time the child reaches the age of five.

19 So, what type of correction methods do they  
20 allow for this? If I apply for a job and they say you're  
21 not in the system, how many days do I have to correct  
22 it, or is there a time or an allotment, or is there any  
23 type of administrative proposal to give a 60, 90,  
24 120-day correction period?

25 MR. BOTANA: I'm not aware of the system as

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1 it was proposed in Senate Bill 744 allowing for a  
2 specific amount of time.

3 I know from my own experience in dealing  
4 with these types of issues for clients, the employee is  
5 given a certain amount of time to go to the Social  
6 Security Administration and to the other agency to go  
7 and try to correct the problem.

8 I don't know off of the top of my head  
9 exactly what the time period is that's allowed for that,  
10 but the employee is given some time to -- the employer  
11 gets what's called a mismatch letter. It communicates  
12 with the employees and gives the employees then some  
13 time to go and try to correct that problem.

14 COMMISSIONER KLADNEY: Was your panel able  
15 to reach an agreement as to what that time period should  
16 be, or did they not --

17 MR. BOTANA: We did not address that at our  
18 level in terms -- and I don't remember off the top of  
19 my head hearing any specific recommendations from any  
20 of the panelists that were that specific in terms of the  
21 amount of time that should be allowed in order for people  
22 to be able to correct those.

23 COMMISSIONER KLADNEY: And one last  
24 question. Does that correction, did anybody say the  
25 correction period worked or didn't work or there was a

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1 problem getting to the Social Security office or  
2 whatever?

3 MR. BOTANA: Again, I don't remember any  
4 specific testimony about the system as it's working  
5 right now. And I think right now about a 10 or 15  
6 percent of employers use the e-Verify because it's not  
7 mandatory. It's voluntary at this point.

8 And the Senate Bill 744 proposed to make it  
9 mandatory, but I don't remember hearing any testimony  
10 about the -- how fruitful it was or how effective it was  
11 to be able to try to make those corrections.

12 COMMISSIONER KLADNEY: Thank you very much.

13 MR. BOTANA: Absolutely.

14 CHAIRMAN CASTRO: Thank you, Commissioner  
15 Kladney. Anecdotally, in the immigration rights  
16 community there are many stories of the difficulty  
17 between interfacing with the various federal  
18 bureaucracies that could make the correction and the  
19 immigrants who are attempting to seek clarification or  
20 correction. So, there have been issues there.

21 I'm sure there's some specific information  
22 that may be in the record there, but just anecdotally  
23 that has been problematic.

24 Commissioner Narasaki.

25 COMMISSIONER NARASAKI: Yes. I just wanted

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1 to actually commend the Advisory Committee for the very  
2 thorough report and the focus on civil rights.

3 Often the debate on immigration is focused  
4 solely on who gets to come in and who gets to stay and  
5 the issue of legalization and the focus on the civil  
6 rights issues and the breadth at which you did it in  
7 terms of also looking at specific populations like the  
8 LGBT community.

9 So, as someone who has worked on  
10 immigration issues for most of my professional life, it  
11 really is an incredible report and I hope that people  
12 will read it.

13 I will note just an anecdotal story on the  
14 e-Verify. So, the House Judiciary Immigration  
15 Subcommittee stole one of my staff attorneys who was a  
16 naturalized citizen. She was Korean American and she  
17 had been naturalized when she was very young.

18 And when she got hired, hers got flagged as  
19 not being a citizen. And it took her a month even though  
20 her boss was chair of the Immigration Subcommittee in  
21 the House.

22 And so, you could imagine the challenges if  
23 you don't have that kind of connection of really trying  
24 to go up against the federal government to get these  
25 records cleared.

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1 CHAIRMAN CASTRO: Thank you, Commissioner  
2 Narasaki. Any other questions for Mr. Botana?

3 (No response.)

4 CHAIRMAN CASTRO: Hearing none, then I will  
5 now thank you, James, and we're now going to move on to  
6 your colleague from Georgia, Jerry Gonzales.

7 Many of you, I think, are familiar with  
8 Chair Gonzales of our State Advisory Committee in  
9 Georgia. He appeared and testified before us at our  
10 hearing on immigration issues in Alabama. He was at our  
11 hearing as well on Stand Your Ground Laws in Orlando in  
12 October.

13 And he's also very active in the leadership  
14 of the Georgia Association of Latino Elected and  
15 Appointed officials, which I have had the pleasure to  
16 speak to in my official capacity as chair.

17 And their report, Immigration and Civil  
18 Rights, Just and Fair Immigration Reform is an Urgent  
19 Matter for Georgia, has been issued already and is  
20 available currently for download on our website at  
21 USCCR.gov.

22 So, if anyone is following along right now,  
23 you can actually go to our website, pull up the report  
24 and listen to Chairman Gonzales talk about the work of  
25 the Georgia SAC. Jerry.

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1 MR. GONZALES: Thank you, Chairman Castro.  
2 Certainly appreciate working with the U.S. Commission  
3 on Civil Rights on matters that are very important to  
4 us. And certainly appreciate the connection with you  
5 all this morning as well.

6 I wanted to provide sort of a brief update  
7 associated with specifically on the report that was  
8 issued and make sure that you all are aware as you move  
9 into this issue further anything that we can be of a  
10 resource in Georgia, you certainly can rely on us for  
11 that.

12 I do want to start by acknowledging my  
13 co-chair of the Immigration Subcommittee that we have  
14 who is Professor Joseph Knippenberg out of Oglethorpe  
15 University.

16 He was co-chairing the hearing that we had  
17 in 2013 on this matter. And certainly Oglethorpe  
18 students as well provided significant amount of support  
19 in the writing and drafting of the report. So, I want  
20 to acknowledge their contributions to that officially  
21 as well.

22 The focus of the report that we did was in  
23 reaction to the state's passage of an Arizona-style  
24 legislation in Georgia called HB 87. And we wanted to  
25 look at sort of the history, the administration of

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1 justice within immigration and then look at  
2 particularly here in Georgia how -- its impact on the  
3 economy. And then also talking about the impact that  
4 we had started seeing on the implementation and the  
5 environment that has been created in Georgia because of  
6 that type of legislation that targets foreign-born  
7 communities, specifically Latino and Asian communities  
8 in the state.

9 So, in a nutshell, the immigrant community  
10 is very important to the state of Georgia.  
11 Particularly in the agricultural industry it is  
12 significantly important.

13 That is Georgia's number one industry.  
14 And without the immigrant community, our agricultural  
15 industry would disappear. And that is something that  
16 we heard testimony from professional associations of  
17 fruit and vegetable growers, as well as people within  
18 the service industry.

19 We heard from the Georgia Restaurant  
20 Association and certainly included information about  
21 the essential economy as a bipartisan collaboration to  
22 look at the essential workers in our economy to ensure  
23 that we can have these types of workers in order for  
24 other economies in our state to prosper.

25 So, we looked at various different aspects

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1 of it from an economic perspective, but we also wanted  
2 to look at aspects and impact that has been felt across  
3 the community in a variety of different trends that we  
4 came to hear from the different community members.

5 One of those findings was, number one, is  
6 that public safety is being undermined. When there is  
7 a blurring of the lines of local community policing and  
8 federal law enforcement, that makes us all less safe.

9 You will have a segment of the population  
10 that is more reluctant to make any kind of contact with  
11 law enforcement because of fear of being put into  
12 immigration detention or deportation.

13 And we had a police chief mention or  
14 testify, a police chief in Doraville, John King, who  
15 happens to be of Mexican descent as well. And he  
16 mentioned that it makes it very, very difficult for him  
17 to be able to act in a way that enhances community  
18 policing, but at the same time upholds his duty to uphold  
19 all the laws in the state.

20 And it puts him in a very precarious  
21 situation where it -- the current state of affairs  
22 doesn't allow him to do his job in an effective manner.  
23 So, public safety was a big concern for many of the  
24 people that we heard testimony on.

25 Employers' as well as employees' rights

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1 being subverted. Unequal competition by different  
2 employers and exploitation of workers because of their  
3 immigration status is a very serious concern.

4 Family unity was one area in which there was  
5 great focus upon. Unfortunately, children, U.S.  
6 citizen children have some parents that are  
7 undocumented. And we have a lot -- we have great number  
8 of households in the state of Georgia that are  
9 mixed-status families. And that's a big concern on how  
10 that law is going to be implemented.

11 And then even further there is lack of  
12 access to our higher educational system in the state of  
13 Georgia. Currently, Georgia is one of the few states  
14 in the country that has a ban of access to higher  
15 education to the top five universities to any  
16 undocumented students.

17 Even after they've been through the  
18 deferred action for childhood arrival process, the ban  
19 still holds true where they cannot attend the top five  
20 universities in the state of Georgia. And they are  
21 forced to pay out-of-state tuition at this point as  
22 well.

23 So, access to educational opportunities  
24 was another concern that was addressed from the  
25 testimony that we heard.

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1           And then lastly, the free expression of  
2 religion was also a concern in the provisions of HB 87  
3 that was passed in the state of Georgia. Certainly some  
4 -- particularly one testimony from former mayor of  
5 Uvalda, Georgia, Paul Bridges, indicated that because  
6 of his Christian beliefs, he felt the need to reach out  
7 and be a part of the growing Latino community in his  
8 neighborhood.

9           And because of his Christian beliefs of  
10 helping his neighbors, he felt that he was going to be  
11 targeted as part of this billing, which is why he became  
12 one of the co-plaintiffs against the state in the  
13 lawsuit that was filed at part of the state.

14           So, because of his religious beliefs, he  
15 felt that the law was putting an undue burden on him and  
16 putting him in a precarious situation with the state law  
17 as well.

18           So, a recommendation ultimately that we  
19 made as a commission that was voted unanimously with one  
20 extension, was essentially that our immigration system  
21 is broken and continues to be broken. And we do  
22 recommend that our Georgia congressional delegation  
23 work together in a bipartisan manner to ensure that we  
24 can address the issue once and for all.

25           Georgia's economy depends on that.

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1 Georgia's civil rights community depends on that to  
2 ensure that we don't treat foreign-born immigrants in  
3 a hostile manner in the state of Georgia.

4 And certainly the steps that have -- so,  
5 that was the recommendation of our findings in our  
6 hearings. And if I could elaborate further, post the  
7 report being issued certainly the state of Georgia can  
8 benefit from President Obama's executive action.

9 It's estimated that 130,000 newly  
10 qualified for DACA II and the deferred action for  
11 parental accountability extension that the president  
12 did may be impacted in the state of Georgia. So, that's  
13 a significant part of the population, the undocumented  
14 population here in the state of Georgia that could be  
15 impacted.

16 And for DACA I, Georgia has had a very high  
17 rate of application, about 54 percent, where we have an  
18 estimated 40,000 young people that are eligible for the  
19 DACA I program that have -- and 54 percent of those have  
20 gone through that application process.

21 So, certainly immigration and the lack of  
22 action at the congressional level is a significant  
23 impact to our state and certainly appreciate the  
24 Commission's time to be briefed on this matter.

25 CHAIRMAN CASTRO: Thank you. Thank you,

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1 Chair Gonzales, for your report and your work, as well  
2 as your leadership on this.

3 And I just want to before I give  
4 commissioners an opportunity to ask you some questions  
5 if they have them, is also acknowledge that your  
6 committee co-chair Joseph Knippenberg was also one of  
7 the witnesses who testified at our Alabama hearing.

8 And also just to indicate that I was pleased  
9 to attend the SAC hearing that was the basis for this  
10 report.

11 And one of the interesting things I learned  
12 there in addition to everything that you just reported  
13 on was to hear some of the local agricultural leaders,  
14 some of the local farmers particularly in your industry  
15 on peaches, indicate that need and how the folks that  
16 work those jobs picking the peaches, those are actually  
17 very skilled jobs. They're not unskilled labor.

18 And they testified about the fact that once  
19 immigrants as a result of the law in Georgia were not  
20 coming to the job, they brought in local non-immigrant  
21 work and workers who just did not know how to pick the  
22 peaches and were causing loss of crops because there is  
23 a very special technique and skill to that.

24 So, that was a lot of information that you  
25 shared with us that was very important and enlightening.

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1 I'll now ask any commissioners who may have  
2 questions. Commissioner Narasaki.

3 COMMISSIONER NARASAKI: Yes. Thank you  
4 again for a very extensive report. I'm just curious.  
5 I have a question.

6 Two of the witnesses, Helen Kim Ho and  
7 Father Frank Mulcahy -- I assume he's Father -- from the  
8 Georgia Catholic Conference, both talked about the long  
9 family backlogs.

10 From some Asian countries, the wait to  
11 bring family members could be 10 to 20 years. And the  
12 waits to bring in spouses of legal permanent residents  
13 from Mexico is probably more than five to 10 years at  
14 this point, but that did not make it into the findings  
15 and I'm just wondering what the discussion was with the  
16 Committee on this.

17 MR. GONZALES: Thank you. And the  
18 testimonies that were provided by Ms. Ho and Mr. Mulcahy  
19 is not -- he's not a priest. He's actually the attorney  
20 that works as a lobbyist for the Georgia Catholic  
21 Conference and works with us on a variety of different  
22 issues.

23 The scope of the report that we had was  
24 centered around the impact and around the issue of HB  
25 87, which is the State law that was passed. And we

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1 certainly as we all know, immigration is a broad issue.  
2 And we couldn't cover all aspects of the challenges with  
3 immigration.

4 So, the focus was primarily around that,  
5 but certainly I agree that there is a significant  
6 backlog particularly within the Asian community that is  
7 a problem. And that is why we believe that addressing  
8 it from a holistic perspective and at the congressional  
9 level is the answer to ensure that we can get a robust,  
10 effective and efficient immigration policy that  
11 reflects the values and the will of this country.

12 And that's what, ultimately, what we made  
13 a recommendation for.

14 COMMISSIONER NARASAKI: Thank you.

15 CHAIRMAN CASTRO: Any other questions,  
16 Commissioners?

17 (No response.)

18 CHAIRMAN CASTRO: Hearing none, I want to  
19 thank both of you for your work and your leadership and  
20 these reports. And we very much appreciate that and  
21 look forward to continuing our strong relationship with  
22 all of our SACs, especially the two of yours. So, thank  
23 you very much.

24 We now move on to our Staff Director's  
25 report. Madam Staff Director, please proceed.

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1                   STAFF DIRECTOR SALLO: If I may, I would just  
2                   like to give updates on a couple of bills that I thought  
3                   might be of interest to the Commission.

4                   And then nothing really has occurred since  
5                   the last update that I provided that's not already  
6                   included in the report.

7                   And the reason why I'd like to pass on any  
8                   extensive information is because we do have a NARA  
9                   training schedule for this at 11:00 o'clock this morning  
10                  and I believe that the trainer is already here.

11                  CHAIRMAN CASTRO: Okay.

12                  STAFF DIRECTOR SALLO: So, I wouldn't want  
13                  to hold him up any further, but --

14                  CHAIRMAN CASTRO: Okay.

15                  STAFF DIRECTOR SALLO: -- I just want to  
16                  put on your radar that HR 647, it's the Able Act of 2014,  
17                  I've been looking at some of the pending bills and I  
18                  thought that this was a bill that the Commission might  
19                  be interested in knowing about.

20                  It's Achieving a Better Life Experience Act  
21                  of 2014. And what it's looking to do is to encourage  
22                  and assist individuals and families in saving private  
23                  funds for the purpose of supporting individuals with  
24                  disabilities to maintain health, independence and  
25                  quality of life. Since we do studies on folks with

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1 disabilities, I was happy to see that submitted.

2 And secondly, I am happy to report that HR  
3 1447, which is Death and Custody Reporting Act of 2013,  
4 has now passed the House and the Senate.

5 And the reason why I believe this is  
6 important to be aware of is because of the upcoming  
7 briefing that we will be holding in January.

8 And what this reporting act  
9 reauthorization requires is for states to receive  
10 allocations under specified provisions. And through  
11 those -- and requires the head of each federal law  
12 enforcement agency to report to the Attorney General  
13 annually certain info regarding the death of any person  
14 who is either detained or arrested by an officer of such  
15 agency, or is enroute to be incarcerated or detained --  
16 or is incarcerated or detained at any federal  
17 correctional facility or federal pre-trial detention  
18 facility located in the U.S., which also includes the  
19 private immigration detention facilities.

20 CHAIRMAN CASTRO: Thank you. Anything else  
21 for the Staff Director? If not, I will turn our  
22 attention to our State Advisory Committee appointments.

23 **VI. STATE ADVISORY COMMITTEE (SAC) APPOINTMENTS**

24 CHAIRMAN CASTRO: I am now going to make a  
25 motion that the Commission appoint the following

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1 individuals to the Indiana State Advisory Committee  
2 based upon the recommendation of our staff director.

3 Diane Clements, Teri Caldwell, Elizabeth  
4 Cierzniak, Tammi Davis, Robert Dion, Morella Dominguez,  
5 Joseph -- I'm sorry -- Christopher Douglas, Richard  
6 Garnett, James Haigh, Robert Heidt, Leslie Hiner, Tony  
7 Kirkland, Billy McGill, Jr., Patti O'Callaghan, Ernesto  
8 Palomo, Carlton Waterhouse, Ellen Wu and Catherine  
9 Zuckert.

10 Pursuant to this motion, the Commission  
11 appoints Diane Clements as chair of the Indiana State  
12 Advisory Committee. These members will serve as  
13 uncompensated government employees.

14 Under this motion, the Commission  
15 authorizes the Staff Director to execute the  
16 appropriate paperwork for the appointments.

17 Do I have a second?

18 COMMISSIONER HERIOT: Second.

19 CHAIRMAN CASTRO: Okay. Thank you. Any  
20 discussion? Commissioner Narasaki.

21 COMMISSIONER NARASAKI: Yes, I want to  
22 commend the staff on pulling together a very strong  
23 slate including a good representation from the Native  
24 American community.

25 I do want to flag concern I will support

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1 the slate, but I do want to flag a concern about the fact  
2 that there is no -- at least from what we can tell from  
3 the background, no one with a disability reflected in  
4 the group, as well as my interest in trying to see some  
5 younger leaders be included in these slates.

6 I feel that the younger generation has a  
7 very different experience with race and different  
8 approaches, because they are more from the internet  
9 generation. And we might miss those issues if there's  
10 not that kind of diversity on these slates.

11 And even though I'm speaking against my own  
12 generation, I think it's time to start making sure that  
13 we're getting voices from the younger generation.

14 STAFF DIRECTOR SALLO: Yes, we do our best  
15 and we'll continue to try to target them.

16 CHAIRMAN CASTRO: Any other questions?  
17 Commissioner Heriot.

18 COMMISSIONER HERIOT: I'm going to be voting  
19 against the Indiana SAC slate as proposed. The Indiana  
20 SAC has caused some controversy in the past.

21 I note that Gerard Bradley who is one of the  
22 world's leading authorities on law and religion --

23 CHAIRMAN CASTRO: Commissioner, there's  
24 certain things that we --

25 COMMISSIONER HERIOT: -- was on the SAC.

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1 CHAIRMAN CASTRO: -- cannot put on the  
2 record.

3 COMMISSIONER HERIOT: And, therefore,  
4 should still be on the SAC under our policies.

5 MS. HEPLER: We can't put anyone's name --

6 COMMISSIONER HERIOT: And has been  
7 subtracted from the SAC --

8 CHAIRMAN CASTRO: We have counsel who needs  
9 to say something.

10 COMMISSIONER HERIOT: -- list.

11 CHAIRMAN CASTRO: Can you hold on,  
12 Commissioner Heriot?

13 COMMISSIONER HERIOT: And so --

14 CHAIRMAN CASTRO: Can we turn off her mic?

15 COMMISSIONER HERIOT: -- I will be  
16 opposing that.

17 CHAIRMAN CASTRO: Thank you. Madam -- Ms.  
18 Hepler.

19 MS. HEPLER: Yes. Let's refrain from  
20 putting names on there in this discussion, you know.  
21 You can do offline. No names on the --

22 COMMISSIONER HERIOT: No. No, I mean, our  
23 job is to put together the best SAC that we can. I don't  
24 think that can be done without referring to people.

25 CHAIRMAN CASTRO: Commissioner Heriot --

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1                   COMMISSIONER HERIOT: I don't think it's  
2 controversial that Gerard Bradley is one of the leading  
3 authorities on law and religion in the world.

4                   CHAIRMAN CASTRO: All right. Well, you've  
5 made your comment. Thank you. Any additional comments?

6                   COMMISSIONER KIRSANOW: Kirsanow here.

7                   CHAIRMAN CASTRO: Yes, Commissioner. And  
8 keep in mind Ms. Hepler's legal advice to us. Thank you.

9                   COMMISSIONER KIRSANOW: Yes. I will  
10 respect Ms. Hepler's legal advice on this despite the  
11 fact that I don't think any controversial statements  
12 have been made. We're not making any statements with  
13 respect to a particular person whose name has already  
14 been mentioned several times before in a previous  
15 meeting, but he is -- the unnamed person is one of the  
16 premier scholars, legal scholars not just on religion,  
17 but a number of matters in the country. And I'm not sure  
18 why his name was left off.

19                   This is not a reflection on any other  
20 candidate in the Indiana SAC. I simply have not been  
21 tendered an explanation for why this individual's name  
22 had been on, then it was taken off and he's not on there.

23                   We should be, you know, very thankful that  
24 someone of his eminence would be willing to serve on the  
25 SAC.

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1 I hope we're not now engaging in posing some  
2 type of religious test for membership on SACs. I trust  
3 we're not doing that, but I will be voting no.

4 CHAIRMAN CASTRO: Any other comments?

5 (No response.)

6 CHAIRMAN CASTRO: Hearing none, then I will  
7 call for a vote. Commissioner Heriot, how do you vote?

8 COMMISSIONER HERIOT: No.

9 CHAIRMAN CASTRO: Commissioner  
10 Timmons-Goodson, how do you vote?

11 COMMISSIONER TIMMONS-GOODSON: Yes.

12 CHAIRMAN CASTRO: Commissioner Narasaki,  
13 how do you vote?

14 COMMISSIONER NARASAKI: Yes.

15 CHAIRMAN CASTRO: Commissioner Kladney, how  
16 do you vote?

17 COMMISSIONER KLADNEY: I abstain.

18 CHAIRMAN CASTRO: Commissioner Achtenberg,  
19 how do you vote?

20 (No response.)

21 CHAIRMAN CASTRO: Commissioner Achtenberg,  
22 I'll come back to you. Commissioner Yaki, how do you  
23 vote?

24 COMMISSIONER YAKI: Aye.

25 COMMISSIONER ACHTENBERG: Sorry, Mr.

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1 Chairman. I was on mute.

2 CHAIRMAN CASTRO: Yes. How do you vote?

3 COMMISSIONER ACHTENBERG: I vote yes.

4 CHAIRMAN CASTRO: Okay. Commissioner  
5 Kirsanow, how do you vote?

6 COMMISSIONER KIRSANOW: No.

7 CHAIRMAN CASTRO: And I vote yes. The slate  
8 passes with one, two, three, four, five yes votes, two  
9 not votes and an abstention.

10 Okay. There is nothing further on our  
11 agenda. Therefore, I am calling this meeting  
12 adjourned. The hour is now 11:24 a.m. Eastern Time.  
13 Thank you, everyone.

14 (Whereupon, the above-entitled matter went  
15 off the record at 11:24 a.m.)

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