

## U.S. COMMISSION ON CIVIL RIGHTS

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## IMMIGRATION DETENTION SUBCOMMITTEE

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## TELEPHONIC BUSINESS MEETING

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MONDAY, MAY 6, 2019

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The Commission convened via  
teleconference at 1:30 p.m., Michael Yaki,  
Commissioner, presiding.

PRESENT:

MICHAEL YAKI, Commissioner

DEBO P. ADEGBILE, Commissioner

DAVID KLADNEY, Commissioner

KAREN K. NARASAKI, Commissioner

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

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## STAFF PRESENT:

MIRIAM ABAYA

KATHERINE CULLITON-GONZALEZ

PAMELA DUNSTON, Chief ASCD

ALFREDA GREENE

CHARLES JONES

HILLARY KIPNIS

TINA LOUISE MARTIN

KATHERINE MATTHEWS

PILAR MCLAUGHLIN

CAROL STACHURSKI

FRAN TATU

WARREN ORR

BRIAN WALCH

## COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

JASON LAGRIA

CARISSA MULDER

ALISON SOMIN

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1 P R O C E E D I N G S

2 (1:34 p.m.)

3 COMMISSIONER YAKI: I'm going to call the  
4 meeting to order. This is a meeting of the --

5 OPERATOR: My apologies. Would you like  
6 me to go ahead and begin the call?

7 COMMISSIONER YAKI: Yes.

8 OPERATOR: Okay. And who will I turn it  
9 over to? Michael Yaki?

10 COMMISSIONER YAKI: Yes.

11 OPERATOR: Okay, perfect. Thank you. One  
12 moment, please. Good day and welcome to the United  
13 States Commission on Civil Rights Commission  
14 Telephonic Business Meeting. At this time, I would  
15 like to turn the conference over to Mr. Michael Yaki.  
16 You may begin.

17 COMMISSIONER YAKI: Thank you very much.  
18 Welcome to everybody who is listening. This is  
19 Commissioner Michael Yaki, Chair of the Immigration  
20 Detention Subcommittee of the United States Commission  
21 of Civil Rights. It is Monday, May 6, 2019, and it's  
22 10:35 p.m. I am going to first call the  
23 roll. Is Commissioner Narasaki present?

24 COMMISSIONER NARASAKI: Here.

25 COMMISSIONER YAKI: Is Commissioner

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1 Kladney present?

2 COMMISSIONER KLADNEY: Present.

3 COMMISSIONER YAKI: Is Commissioner  
4 Adegbile present?

5 COMMISSIONER ADEGBILE: Present.

6 COMMISSIONER YAKI: Is Commissioner  
7 Kirsanow present?

8 (No audible response.)

9 COMMISSIONER YAKI: Commissioner Kirsanow  
10 is not present. Commissioner Yaki is present, and I  
11 think that's it. Any commissioners on the phone that  
12 I did not call? Good.

13 We have --

14 COMMISSIONER KLADNEY: Is the vice chair a  
15 member of the Committee?

16 MR. CASTRO: Yes, Marty Castro.

17 COMMISSIONER YAKI: Just one second. No,  
18 she's not. The quorum being present, I'm going to  
19 move for an approval of the agenda.

20 **I. APPROVAL OF AGENDA**

21 COMMISSIONER YAKI: I have one item to  
22 move to put on the agenda. I would like to put first  
23 on the agenda an item to allow for comments by, a  
24 statement by our former chair, Marty Castro. Is there  
25 any objection to that being added to the agenda?

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1 COMMISSIONER NARASAKI: I second.

2 COMMISSIONER YAKI: It's seconded by  
3 Commissioner Narasaki. Without any objection, that  
4 amendment is adopted. Approval of the agenda as  
5 amended? Is there a motion?

6 COMMISSIONER ADEGBILE: So moved.

7 COMMISSIONER YAKI: So moved by  
8 Commissioner Adegbile. Is there a second?

9 COMMISSIONER NARASAKI: Narasaki seconds.

10 COMMISSIONER YAKI: Seconded by  
11 Commissioner Narasaki. Without objection, the agenda,  
12 as amended, is approved. The first item on the agenda  
13 is a statement, a special comment and statement from  
14 our former chair, former Chairman and Commissioner  
15 Martin Castro. Mr. Castro, are you with us?

16 **II. STATEMENT BY FORMER CHAIRMAN MARTIN CASTRO**

17 MR. CASTRO: Yes, I am, Mr. Yaki. Can you  
18 hear me?

19 COMMISSIONER YAKI: We can indeed. The  
20 floor is yours, and thank you very much.

21 MR. CASTRO: Thank you, Commissioner Yaki,  
22 and all the Commissioners present for allowing me to  
23 say a few words on this really important topic. Some  
24 of us obviously work together on this issue, and I'm  
25 extremely pleased to see that the Commission is

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1 continuing the work that we started in 2015. In so  
2 many ways, I think it's even more important today than  
3 it was when we began the work a few years ago, and  
4 some of those reasons are the following: Felipe  
5 Alonzo, Jakelin Caal, Mariee Juarez, and a young 16-  
6 year-old boy who died a week ago, all of whom died in  
7 the last year, most of whom died in the last six  
8 months in ICE custody. And while this is an issue of  
9 high importance at all times, I think, when we look at  
10 the fact that we have not only these children who died  
11 in our government's custody very recently over, at  
12 least as of January, over the last year, news outlets  
13 have reported that at least 22 other immigrants,  
14 refugees many of them, have died during their  
15 detention in our federal government's custody. I  
16 think this puts a special emphasis and a renewed  
17 urgency on the issue that is before you and, again, I  
18 commend you for the work that you're doing now.

19 As you know, during my chairmanship, we  
20 covered a number of issues, but one of which I am the  
21 most proud is the work that we did on issuing the  
22 reports that we did during the Obama Administration on  
23 *With Liberty and Justice for All: The State of Civil*  
24 *Rights at Immigration Detention Centers* because it's  
25 often forgotten that, yes, these immigrants, while

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1 they're not United States citizens, they may not even  
2 be formal approved residents or immigrants, they still  
3 have constitutional rights under our government and  
4 under our own regulation, so it's important that we  
5 emphasize that now more than ever.

6 You all know that we issued a very tough  
7 report on the conditions during the Obama  
8 Administration. Some would argue that that was a  
9 friendly administration. Things have only gotten  
10 worse in the last few years, and I think that the work  
11 that you're about to do can have an even broader  
12 impact than the work that we did in 2015.

13 When you look at the fact that families  
14 that we talked to when we went down to the border,  
15 moms and children were being threatened at the time  
16 with family separation. And to see that not only did  
17 that actually occur but it occurred in a way that was  
18 beyond the pale sends a message that the work that we  
19 need to continue is of utmost importance.

20 I think highlighting the fact that many of  
21 these individuals and families and unaccompanied  
22 minors and not only in the custody of the federal  
23 government but our government continues to farm out  
24 that important responsibility to for-profit companies.

25 That industrial complex of detention has grown since

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1 2015, and I think it's important to continue to  
2 highlight that.

3           You all know when we went to Karnes it was  
4 a difficult time. I'm still haunted by the  
5 conversations I had with the mothers and especially  
6 with the children there. I recall sitting down at a  
7 lunch counter with three little children around 7 or 8  
8 years old, two boys and a girl from Central America.  
9 I asked them what they wanted to be when they grew up.

10          Two of them wanted to be a lawyer, and one of them  
11 wanted to be a doctor. I don't know whatever happened  
12 to those children. I don't know if not only will  
13 those dreams ever come true, I don't even know what  
14 conditions they were in when they went back to their  
15 home countries where violence reigned. But I know  
16 when I stood up from that table and tried to walk  
17 away, that little boy, one of the little boys grabbed  
18 me by the hand and said to me in Spanish please, sir,  
19 don't leave me here, take me with you. And even as I  
20 think about that now, it's very emotional for me. And  
21 those children that have died in our custody are just  
22 like those children that we spoke with.

23           So as you move forward with this continued  
24 examination and investigation, I know there's many  
25 issues that you need to look at and I know from the

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1 time I was with you that the resources are limited,  
2 the time is limited. There are a number of challenges  
3 that you have to overcome in order to be able to put  
4 out a strong report. But I hope that in this process  
5 you put a second emphasis on the deaths of Alonzo and  
6 of Mariee and of Jakelin and the yet unnamed boy who  
7 died a week ago because if you don't, if we don't  
8 highlight this and put people to task and bring  
9 accountability and bring justice to these children,  
10 their deaths will be for naught. And I know you won't  
11 allow that. I know that, hopefully, the results from  
12 this work is that no more children or others will die  
13 in the custody of our own government.

14 So I thank you again for letting me share  
15 a few words, and I really appreciate that you're doing  
16 this. Just so you know, I've asked members of the  
17 Hispanic caucus to host congressional hearings on  
18 this, and I am told that when this happened initially,  
19 these two children died in December, I was told then  
20 that hearings would take place. I have since reached  
21 out again to members of Congress, the Latino caucus,  
22 including Chuy Garcia, our newly-elected Congressman  
23 here in Illinois, and I'm assured that Congress will  
24 be looking at this. And so I think, in tandem with  
25 the work that Congress I hope does and the work that

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1 you're doing, we'll be able to shine the important  
2 conscience of the Civil Rights Commission on this  
3 issue.

4 So thank you for the opportunity to share  
5 a few words, and I'm happy to answer any questions or  
6 I'll just continue to listen and participate in your  
7 meeting. Thanks.

8 COMMISSIONER YAKI: Former Chair, this is  
9 Commissioner Yaki. For one, I wanted to thank you for  
10 your leadership on the 2015 report and I agree this  
11 has somewhat different and important ramifications  
12 that go beyond what we've worked on then. But we  
13 wouldn't be here had it not been for your initial  
14 leadership on this issue and your courage in taking on  
15 an administration that hatched and appointed you as  
16 chair. I just wanted to thank you for that and thank  
17 you for your comments today.

18 Colleagues, are there any questions that  
19 any of you have for Chair Castro?

20 COMMISSIONER ADEGBILE: Just thank you to  
21 the former chair for his comments and insights.

22 MR. CASTRO: Thank you, Commissioner.

23 COMMISSIONER YAKI: Great. With that,  
24 thank you, thank you, Chair. I hope you will have fun  
25 listening to parliamentary procedure, and thank you

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1 again. And don't be a stranger. Keep in touch.

2 MR. CASTRO: Absolutely. Thank you.

3 COMMISSIONER YAKI: Great. Thank you very  
4 much. I will now move on to the next agenda item,  
5 discussion of the report update and what our next  
6 steps are going to be.

7 **III. DISCUSSION OF REPORT UPDATE FOLLOWING**

8 **PUBLIC COMMENT PERIOD**

9 COMMISSIONER YAKI: I think first I wanted  
10 to thank Rukku [Singla] for continued outstanding work  
11 in assisting on this subcommittee, and I again want to  
12 put out a special shout-out to her work in  
13 volunteering to help the committee and myself move  
14 forward on this.

15 Rukku had sent out two documents last  
16 week. One was a draft outline, and one was a draft  
17 time line. Now, before we get to the time line, I  
18 wanted to first bring up did anyone have any thoughts  
19 about any issues regarding the draft outline of the  
20 report that was circulated last week?

21 COMMISSIONER KLADNEY: This is Kladney.  
22 I've got a few.

23 COMMISSIONER YAKI: Okay.

24 COMMISSIONER KLADNEY: I'm trying to --  
25 we're going to take the 2015 report and outline it in

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1 comparison to what's in the FY 19 report, correct?

2 COMMISSIONER YAKI: I don't think we're  
3 going to compare it as much as we're going to update  
4 it with additional information. I think it's going to  
5 be a comparison, I mean there are going to be some  
6 obvious issues of comparison in terms of the changes  
7 since then. But I think those changes can be more in  
8 one separate section than attempting to go back and  
9 annotate the entire report. But maybe I'm  
10 misunderstanding what you're looking for.

11 COMMISSIONER KLADNEY: I'm not sure how  
12 we're going to go about updating this information. I  
13 thought the update was actually in the outline. The  
14 update was in the FY 19 report, and then we were going  
15 to include -- I have another comment, too, but let's  
16 resolve this first.

17 COMMISSIONER YAKI: Okay.

18 COMMISSIONER KLADNEY: Show me some  
19 clarity.

20 COMMISSIONER YAKI: The issue is --

21 COMMISSIONER KLADNEY: For FY 19, she says  
22 in number three background to be filled in with  
23 material from FY 19 report, Chapter 8, DHS [Department  
24 of Homeland Security].

25 COMMISSIONER YAKI: Yes.

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1 COMMISSIONER KLADNEY: What's that --

2 COMMISSIONER YAKI: We received, as part  
3 of our federal enforcement report, we received the  
4 information from DHS that is also responsive to the  
5 subject matter of this committee. So OCRE [Office of  
6 Civil Rights Evaluation] has agreed to essentially  
7 allow us to utilize those sections as part of what we  
8 believe to the statement. If we have any response at  
9 all from the federal agencies that refused our  
10 discovery, we are going to include that in there as  
11 sort of a what we are able to glean from the actual  
12 departments about what they have said relates to the  
13 jurisdiction of this committee. It's not going to be  
14 obviously a full response or even a real response but  
15 simply information that we'll be able to track  
16 regarding the subject matter of this committee through  
17 other responses to the USCCR from the FY 19 report.

18 COMMISSIONER KLADNEY: The way I take this  
19 outline is that taking within an outline the actions  
20 that we've taken so far, and then we're going to take  
21 the FY 15 report and outline the sections that deal  
22 with the sections in number three and compare them to  
23 the FY 15 report and the FY 19 report and just compare  
24 them and then just add a couple of comments. That's  
25 what this document that I'm looking at says. Does

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1 anybody else have a similar understanding or something  
2 different?

3 MS. CULLITON-GONZALEZ: If I may, would it  
4 be helpful for --

5 COMMISSIONER KLADNEY: Sure. Who?

6 MS. CULLITON-GONZALEZ: This is Kathy from  
7 OCRE.

8 COMMISSIONER YAKI: Go ahead, Kathy.

9 MS. CULLITON-GONZALEZ: Okay. So I think  
10 the idea was that OCRE has actually done research on  
11 immigrant detention and family separation as part of  
12 the FY 19 report and so not only the information we  
13 received from DHS but also the write-up that we have  
14 received for FY 19 could be helpful because there is  
15 an analysis of the Flores Agreement and many issues  
16 that came out during the public comment session. So  
17 that was my understanding.

18 COMMISSIONER KLADNEY: Well, you've  
19 already done that work and it's in the FY 19 report,  
20 correct?

21 MS. CULLITON-GONZALEZ: I think the idea  
22 is that we would leave it in both places.

23 COMMISSIONER KLADNEY: Well, I understand  
24 that. What I was saying before was we're going to  
25 take the FY 19 information and compare it to the '16

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1 report and just add the FY 19 information using  
2 similar language and the same legal citations; is that  
3 correct? I'm asking the Committee  
4 actually because I think the Committee makes the  
5 decision, but wasn't that the vision?

6 COMMISSIONER NARASAKI: Commissioner  
7 Kladney, this is Commissioner Narasaki. I'm kind of  
8 confused about why, I'm confused about what you're  
9 thinking the incorporation of the 2015 report would be  
10 because I don't see it as a comparison between our  
11 2019, what's in our 2019 and our 2015 report. I'm not  
12 --

13 COMMISSIONER KLADNEY: Well, we were  
14 updating it. I just wanted --

15 COMMISSIONER NARASAKI: -- because that's  
16 not how I understood it.

17 COMMISSIONER KLADNEY: How do you  
18 understand it?

19 COMMISSIONER YAKI: One at a time.

20 COMMISSIONER KLADNEY: How do you  
21 understand it? Because I need some help here.

22 COMMISSIONER NARASAKI: I understand it as  
23 our OCRE director laid it out, which is basically so  
24 we'll have an executive summary, we'll talk about the  
25 Commission's role in our process here, we'll provide a

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1 background to the comments that we'll just pull from  
2 the statutory report that we're working on now. I'm  
3 assuming that the 2015 report, to the extent that  
4 there needs to be anything discussed, will be  
5 discussed in Part 2 but not in Part 3 because Part 2  
6 has 2A, which is a summary of the 2015 report.

7 COMMISSIONER KLADNEY: Well, I mean, if we  
8 have a summary of that, then we're going to summarize,  
9 aren't we going to summarize just the sections of the  
10 2015 report that deal with family separation as set  
11 forth in Part 3? Because that's our charge is family  
12 separation, not detention. If we do, if we're going  
13 to update the entire '15 report, I think we're going  
14 to get pretty unwieldy. I'm trying to limit it so  
15 that we don't get far afield here, and I think family  
16 detention is our charge.

17 COMMISSIONER NARASAKI: Right. I think  
18 that we'll summarize in Part 2A the relevant portions  
19 of our 2015 report, and then Part 3 is background  
20 because the issues, some of the issues that are in  
21 Part 3, like the zero-tolerance family separation and  
22 how that interacts with the Flores Agreement and also  
23 the asylum process just didn't exist because we didn't  
24 have the zero-tolerance policy.

25 COMMISSIONER KLADNEY: Right. But all

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1 that is currently in the '19 report. We're just going  
2 to be lifting it out of there.

3 COMMISSIONER NARASAKI: Right. For the  
4 Part 3.

5 COMMISSIONER KLADNEY: We're not going to  
6 be doing any original research.

7 COMMISSIONER NARASAKI: Correct.

8 COMMISSIONER KLADNEY: There's going to be  
9 no more original research, just what the FY 19 report  
10 contains; is that correct?

11 COMMISSIONER NARASAKI: Well, in terms of  
12 the background.

13 COMMISSIONER KLADNEY: Well, what original  
14 research are we looking at?

15 COMMISSIONER NARASAKI: I think it depends  
16 on -- so I don't think that there's original, I agree  
17 with you I don't think there's original research. I  
18 think Part 4 is the summary of the public testimony  
19 that we got in both through the hearing and also in  
20 writing. So that is correct, Commissioner Kladney,  
21 that we aren't asking staff to do any additional  
22 research.

23 COMMISSIONER KLADNEY: Okay. I do have  
24 another question in terms of how the report is going  
25 to look. I understand during the public comment

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1 period that there were several comments on family  
2 detention and then there was public comments on  
3 general detention. And I think there's a proposal  
4 having the interns summarize this document under their  
5 supervision. And I was wondering whether it would be  
6 better if we included the summary of the family  
7 detention and the report proper and make an appendix  
8 or an attachment to the report on the general  
9 detention so that there's no confusion when someone is  
10 reading the report and trying to deal with family  
11 detention versus general detention. Did I make myself  
12 clear there?

13 COMMISSIONER YAKI: Yes, Commissioner  
14 Kladney. I think that, well, I think, as a general  
15 rule, that would not be a bad idea. I think, as  
16 applied, we are going to find it difficult to make  
17 that separation because so much of this, of these  
18 issues do apply to the conditions of separated  
19 children or could apply to separated children under  
20 this. But I think it would be good to try to make  
21 that distinction and even ask the interns to do that.

22 I also wanted to respond to your issue of  
23 original research because I think, one, there is some  
24 original research that Kathy did as part of the FY 19,  
25 so I don't want to make it seem like we don't have

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1 any. And, two, it is certainly my intention to  
2 include in the discussion information that, new  
3 information regarding this issue from the public  
4 record where there is some testimony to community  
5 jurisdiction in the Congress or other publicly-  
6 available materials into this report. Now, whether we  
7 call that original research or simply gathering  
8 information of what has already been out there is, you  
9 know, I think, a semantic issue. But it's certainly  
10 my intention to supplement the material that DHS  
11 refuse to send to us if we can find it from third-  
12 party sources that are available publicly, whether in  
13 congressional testimony or from other publicly-  
14 available means.

15 COMMISSIONER KLADNEY: And the other  
16 question I had was with the sufficiency review. How  
17 are we going to not have to have that unless we only  
18 deal with topics and information that we currently  
19 have gone through the sufficiency review?

20 COMMISSIONER YAKI: Commissioner Kladney,  
21 I can't answer that right now, but I will be able to  
22 provide you with an answer after I consult with  
23 Maureen [Rudolph] and with the staff director. That's  
24 a good question.

25 Is there anything else on the draft

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1 outline as presented?

2 COMMISSIONER ADEGBILE: I have a question.

3 It was just a suggestion. Sorry. Go ahead.

4 COMMISSIONER YAKI: I was going to say for  
5 the court reporter Commissioner Adegbile.

6 COMMISSIONER ADEGBILE: Yes, thank you,  
7 Commissioner Yaki. So there was a suggestion that the  
8 research, the relevant research and analysis that has  
9 been done in connection with the 2019 statutory  
10 enforcement report could be used and finalized for  
11 purposes of creating what is, largely, the substance  
12 of Roman three in the outline. That's what the  
13 current proposal is, correct?

14 COMMISSIONER YAKI: Yes.

15 COMMISSIONER ADEGBILE: And I'm just  
16 trying to understand something I heard I think for the  
17 first time, which is that that text and research would  
18 be used in two places, both in this update and also in  
19 the fiscal '19 report. Is that the proposal?

20 COMMISSIONER YAKI: Yes, that's what Kathy  
21 said.

22 COMMISSIONER ADEGBILE: I may have some  
23 concerns or at least need some more information about  
24 how that would work as a practical matter, knowing  
25 that that material will become final on different time

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1 frames and, thus, is likely to not end up being  
2 completely aligned. And so, you know, there's at  
3 least a risk that it could say different things in  
4 different time frames, so I think that's a concern.

5 COMMISSIONER YAKI: Okay. Noted. I'll  
6 discuss that with OCRE.

7 COMMISSIONER KLADNEY: OCRE is not writing  
8 this up. This is being done by our committee, the SAs  
9 and the interns.

10 COMMISSIONER YAKI: Yes, and we can  
11 discuss how we interface that with their draft report  
12 to make sure that we either have consistency or we  
13 note where differences may or may not occur. But in  
14 any event, it will involve some discussion with OCRE,  
15 and OCRE can indicate a desire to assist in that  
16 regard and report back to you about how we ensure that  
17 we're not saying two different things with the same  
18 information.

19 Anything else on the draft outline?

20 COMMISSIONER NARASAKI: This is  
21 Commissioner Narasaki. In the due process --

22 COMMISSIONER ADEGBILE: Commissioner  
23 Narasaki, this is Commissioner Adegbile. I apologize  
24 for interrupting. I just wanted to add a small  
25 addendum to my last point for clarity for the record.

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1 COMMISSIONER YAKI: Sure.

2 COMMISSIONER ADEGBILE: Could you indulge  
3 me, Commissioner Narasaki, just to close out that last  
4 discussion?

5 COMMISSIONER NARASAKI: Sure.

6 COMMISSIONER ADEGBILE: So, Commissioner  
7 Yaki, I understand that when reports become final in  
8 different time frames that it's possible that there's  
9 new information or something that would cause material  
10 to be reflected differently, right? So the passage of  
11 time could lead to a bona fide substantive reason for  
12 something to be different in a different time frame,  
13 but there is the broader editorial concern about  
14 alignment. So I just wanted to note that point for  
15 clarity.

16 COMMISSIONER YAKI: Great. Thank you,  
17 Commissioner. Commissioner Narasaki?

18 COMMISSIONER NARASAKI: Sorry,  
19 Commissioner Adegbile. Are you done?

20 COMMISSIONER ADEGBILE: I am, and thanks  
21 for the indulgence.

22 COMMISSIONER NARASAKI: Okay. So under  
23 the due process line for the outline, number two is  
24 language barriers/language access and then under that  
25 is for discussion conditions of consignment needs and

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1 then understanding legal process and trust of process.

2 COMMISSIONER KLADNEY: Excuse me,  
3 Commissioner. Where is that? You said number two --

4 COMMISSIONER YAKI: It's on Section 4,  
5 Subsection 4, the second page --

6 COMMISSIONER KLADNEY: I got it.

7 COMMISSIONER YAKI: -- due process. Got  
8 it? Okay.

9 COMMISSIONER NARASAKI: So Subsection  
10 G(ii) and then 2 says legal cases, understanding the  
11 process. So I am a little concerned that the legal  
12 cases, understanding the process, is just under  
13 language barriers. I think that's its own, I feel  
14 like that its own section. It's not just an issue  
15 about language barriers. Even if you speak English,  
16 you may not understand it. So I didn't just quite  
17 understand that.

18 COMMISSIONER YAKI: Okay. I believe  
19 that's a good point. Let's break that down into its  
20 own Subsection 3 and make sure that, if there's any  
21 cross-pollination on language barriers, we note that.

22 COMMISSIONER NARASAKI: Yes. I just think  
23 that there are process issues that aren't just about  
24 whether you understand them or not that are going on.

25 COMMISSIONER YAKI: Yes, sure, sure. I

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1 agree. Okay. Anything else on the draft outline?  
2 Seeing none, with the various representations, which  
3 I'll have to get back to both Commissioner Kladney,  
4 actually I should say to the subcommittee that have  
5 been voiced by Commissioner Kladney and Commissioner  
6 Adegbile. Do I have a motion to continue with this  
7 outline, pending, of course, further adjustment by  
8 staff or by others? And I'm not saying who's going to  
9 do it. This is just a motion to approve the outline  
10 as we've discussed it today. Is there any objection  
11 to that going forward?

12 COMMISSIONER NARASAKI: This is  
13 Commissioner Narasaki. I move that we adopt the  
14 outline with the revisions that we have discussed and  
15 that have been contemplated by this discussion.

16 COMMISSIONER YAKI: Great. Is there a  
17 second? I'll second it. Is there objections to this  
18 moved and seconded?

19 COMMISSIONER KLADNEY: So are we going to  
20 be able to amend this later? I mean, if we're  
21 adopting it, we're adopting it and I have all these  
22 questions and Commissioner Adegbile has questions, so  
23 how do we handle that in the future?

24 COMMISSIONER YAKI: This is being adopted  
25 as a working document. It's not a final document, but

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1 it will give structure to go forward.

2 COMMISSIONER KLADNEY: Very good.

3 COMMISSIONER YAKI: And so it's been moved  
4 and seconded. Any objections?

5 (No audible response.)

6 COMMISSIONER YAKI: Hearing none, this  
7 will be seen as approved. Next, we'll move on to the  
8 draft time line, and I'm going to, I know that Rukku  
9 sent out a time line earlier. In discussions with her  
10 and the staff, I'd like to change that. And so to  
11 begin discussion, I move that we approve a project  
12 time line of the commissioners and the special  
13 assistants and direct we put updates, including  
14 incorporating input from staff as their time allows.

15 The project outline time line that I move  
16 for approval deviates from what was circulated last  
17 week and calls for a first draft to commissioners by  
18 Friday, July 12th; commissioner edits due back Friday,  
19 July 26th; a final draft circulated by Friday, August  
20 2nd; the commissioners of the subcommittee voting on  
21 the final text on Friday, August 16th.

22 Is there a second for this?

23 COMMISSIONER NARASAKI: I'd like to note  
24 that there also needs to be an adjustment to the  
25 publication release date, which is still July 31, was

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1 the original date which obviously needs to be moved.

2 COMMISSIONER YAKI: Right. And I am  
3 basically replacing dates, and we will leave the dates  
4 for the publication blank for the time being.

5 COMMISSIONER NARASAKI: Okay.

6 COMMISSIONER YAKI: Again, is there a  
7 second for this?

8 COMMISSIONER NARASAKI: Commissioner  
9 Narasaki seconds.

10 COMMISSIONER YAKI: Okay. Any discussion  
11 on this? I have discussion. I would like to bring  
12 up, and this will go, of course, to the publication  
13 date. We want it to be timely, but we also want this  
14 to be done correctly. I would like to be able to  
15 have, I think it's important that we have commissioner  
16 statements. I do not believe it's important to have  
17 commissioner statements, surrebuttals, rebuttals and  
18 surrebuttals, but I would like to just throw out there  
19 the idea that two weeks or a week, depending, after  
20 the adoption of the text and vote by the full  
21 Commission on the report or the subcommittee, I forget  
22 already which will suffice to do, but whatever the  
23 final action is by either the Commission or the  
24 subcommittee that commissioners have an opportunity to  
25 have a statement incorporated in the updated report

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1 but a statement only with no requirements and  
2 allowance for rebuttals and surrebuttals. And  
3 according to legal counsel, we have the ability to  
4 deviate from A1-6 because of the special nature of  
5 this update and, because it is not a full briefing or  
6 a full report, we have that ability.

7 I just wanted to turn that out there for  
8 discussion, and that's all I have in terms of anything  
9 to say about the time line.

10 COMMISSIONER NARASAKI: This is  
11 Commissioner Narasaki. Is this where we would discuss  
12 how we want the staff, how we want the staff getting  
13 the pieces done?

14 COMMISSIONER YAKI: Sure.

15 COMMISSIONER KLADNEY: First, Commissioner  
16 Yaki, so general counsel said we can set our own time  
17 limits on statements and all the rebuttals or all of  
18 that, even though the full Commission has to approve  
19 this report?

20 COMMISSIONER YAKI: Yes.

21 COMMISSIONER KLADNEY: Or does the full  
22 Commission have to approve this report?

23 COMMISSIONER YAKI: My belief is that it  
24 does. Because this is a supplement to a report and  
25 does not have a briefing attached to it or went to a

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1 hearing and because it's simply adding to an existing  
2 report, the usual rules of AIs do not, regarding  
3 statements, rebuttals, and surrebuttals, do not apply.

4 COMMISSIONER KLADNEY: So before the  
5 Commission votes on it, the statements would be made?

6 Is that what you're proposing and is that --

7 COMMISSIONER YAKI: No, I'm saying that --

8 COMMISSIONER KLADNEY: -- according to  
9 legal counsel?

10 COMMISSIONER YAKI: No, I'm saying that  
11 after the update is approved and prior to publication,  
12 statements will be, there will be a deadline for  
13 statements to be made. Just as we do with reports  
14 now, statements would be due after the actual update  
15 or, in this case, amended report would be approved  
16 either by the subcommittee or the full Commission. I  
17 believe it's going to be the full Commission. And  
18 then there would be a deadline for statements to  
19 begin.

20 COMMISSIONER KLADNEY: Okay. So on our  
21 time line now, August 16th, you have the subcommittee  
22 voting on the report. Are we going to have the date  
23 for the Commission to vote on the report or it's going  
24 to be sometime after that? Is that how we're going to  
25 frame that?

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1                   COMMISSIONER YAKI: I think that would  
2 depend on the timing of the Commission calendar and  
3 what's on the Commission calendar, but I don't want to  
4 hem either us or the Commission date in, given that  
5 things may flip between now and then. So this is just  
6 a time line for us to get this date, get this date  
7 done and approved and moving forward. And then if we  
8 have to make any adjustments we will, but the idea  
9 being that we will have our section done by mid-  
10 August. I could see how it could be in the September  
11 meeting. Hopefully, that's when it would be for  
12 approval.

13                   COMMISSIONER KLADNEY: Thank you.

14                   COMMISSIONER YAKI: Any other comments or  
15 discussion? Any strong feelings one way or the other  
16 about commissioner statements and statements either as  
17 a matter of --

18                   COMMISSIONER NARASAKI: Commissioner Yaki?

19                   COMMISSIONER YAKI: -- in this report?  
20 Yes?

21                   COMMISSIONER NARASAKI: Commissioner Yaki,  
22 I don't have the same understanding about what the  
23 general counsel's interpretation is of everything, so  
24 I would suggest that that doesn't need to be settled  
25 now.

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1 COMMISSIONER YAKI: Okay.

2 COMMISSIONER NARASAKI: Because I think  
3 that's probably something that the whole Commission  
4 probably needs to act on anyway.

5 COMMISSIONER YAKI: Okay. I just wanted  
6 to put that out there. So with the amendment that the  
7 publication release date on the proposed time line  
8 would be left blank, with the changes proposed --  
9 Commissioner Narasaki, you wanted to discuss staffing.

10 COMMISSIONER NARASAKI: Well, there's two  
11 things. On the time line, so I think it needs to be  
12 clear that Roman two, final report and vote, is final  
13 report and vote of the subcommittee and not the full  
14 Commission.

15 COMMISSIONER YAKI: Yes.

16 COMMISSIONER NARASAKI: And that before  
17 publication and release, you actually need to have  
18 another date which is to be figured out later, which  
19 is the vote of the full Commission.

20 COMMISSIONER YAKI: I agree.

21 COMMISSIONER NARASAKI: So it was my  
22 understanding that there are commissioners who are, I  
23 think very legitimately, concerned because we lost a  
24 month with the shutdown that this report, that we have  
25 to balance this report with or this whatever we're

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1 calling it with all of the other reports that are  
2 pending, given our limited staff capacity. So I think  
3 people want to make sure that commissioners and staff  
4 are all on the same page about the priorities in terms  
5 of the other reports that need to get done by the end  
6 of the year and that the intention is, one of the  
7 reasons why we were discussing pushing back all of the  
8 dates by a month was to enable us to use the intern  
9 help that will be here this summer, which I support.  
10 Commissioner Yaki, you and I will be sharing an  
11 intern, and I think we could probably devote that  
12 intern fully to whatever needs to happen with the  
13 report. But I just wanted to make sure that all the  
14 commissioners and staff were on the same page because  
15 earlier we had discussed perhaps, like the general  
16 counsel staff had offered perhaps that they would be  
17 able to lend some support, but I think that people are  
18 concerned about how that might impact getting all the  
19 other reports done. So I just want to make sure we're  
20 clear on who's doing what.

21 COMMISSIONER YAKI: Okay. Yes, it is a  
22 motion on the outline, as well. It's commissioners,  
23 SAs, and by that implication would be the supervision  
24 of interns. That's why they gave us pushback. It  
25 contemplates any potential staff time as a level

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1 required and necessary. I'm actually going to discuss  
2 with the staff director whether we could have an  
3 intern who might be willing to simply, under our  
4 supervision, work directly on the report. That is  
5 separate from the intern that you and I would share,  
6 so I'm in discussions with that right now.  
7 But, again, the idea is not to use paid staff time to  
8 do this to the extent that it is humanly possible, and  
9 I appreciate you working to push back the deadlines to  
10 allow interns to be part of what I think would be a  
11 very educational and useful process.

12 STAFF DIRECTOR MORALES: This is Staff  
13 Director Morales. Can I weigh in momentarily here?

14 COMMISSIONER YAKI: Staff Director?

15 STAFF DIRECTOR MORALES: Yes, sir. I'd  
16 like to go ahead and weigh in here. Can you hear me?  
17 Yes, thank you. So I think, you know, given  
18 everybody's obviously legitimate concerns about the  
19 impact of current reports and briefings and everything  
20 we have pending, we've, internally amongst the staff,  
21 have discussed how we can, you know, participate  
22 without impacting any other deadlines we have pending  
23 or that the commissioners have voted on. So we've  
24 preliminarily discussed a working group amongst OCRE,  
25 OGC [Office of General Counsel], special assistants,

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1 and any administrative assistants we may need. We  
2 believe, you know, we can minimize, by working  
3 together as a team, minimize any impact of other time  
4 lines and assist the subcommittee in getting their  
5 document out that they wish to have.

6 And so that's been the commitment, and  
7 we'll continue to work down that line. I think we  
8 have a good working relationship amongst all of us.  
9 And as all of us are equally concerned about the  
10 impact on women and children, I think folks feel, you  
11 know, they're willing to volunteer whatever extra time  
12 they have to accomplish this. So thank you.

13 COMMISSIONER KLADNEY: I don't know what  
14 that means, Mr. Director, in terms of staff time for  
15 this project because it's my understanding the  
16 Commission has already voted there would be no staff  
17 time, except as the chair, our subcommittee chair said  
18 just as necessary, like if it needs legal review or  
19 something like that. But that's my understanding of  
20 what the Commission itself directed, and I don't know  
21 if we can change that sua sponte without their  
22 permission.

23 STAFF DIRECTOR MORALES: Well, you and I  
24 had a pretty good conversation the other day, and I  
25 assured you that there would be no impact to reports,

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1 including your report, coming. And, you know, I think  
2 the staff wants to help, and I think everybody  
3 understands that we don't want to impact any other  
4 deadlines. But if they feel that they can volunteer  
5 and assist, then we want to make sure and assure it's  
6 a high-quality report, along with all the other things  
7 that we've done, Commissioner, and I'm committed to  
8 not impact any other deadlines and make sure that we  
9 accomplish what the commissioners need and what the  
10 subcommittee would like done.

11 COMMISSIONER KLADNEY: That's fine with  
12 me, Mr. Director. It's just that we have to take that  
13 input from the Commission that you're talking about  
14 working on it or just doing supplemental at the  
15 committee's request. I'm not exactly sure where we  
16 are in terms of what the Commission has directed of  
17 this subcommittee.

18 GENERAL COUNSEL RUDOLPH: May I weigh in  
19 on that for just one moment?

20 COMMISSIONER YAKI: Yes.

21 GENERAL COUNSEL RUDOLPH: Thank you.  
22 Commissioner Kladney, I've gone back and looked at the  
23 specific delegation that was given by the full  
24 Commission to the subcommittee, along with, at the  
25 time, what was a four-part motion by Commissioner

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1 Yaki. And while there was, with regard to the motion,  
2 there were, of course, you know, concerns about  
3 impacting other time lines in there and, you know, as  
4 is always our concern, there was not actually a  
5 specific prohibition on staff working on this project.

6 So I just wanted to clarify that for everyone who is  
7 on the phone. Thank you.

8 COURT REPORTER: Excuse me. This is the  
9 court reporter. Can that speaker recite their name?

10 GENERAL COUNSEL RUDOLPH: Oh, I'm sorry.  
11 This is Maureen Rudolph. I apologize.

12 COURT REPORTER: Thank you.

13 COMMISSIONER YAKI: Any other comments,  
14 Commissioner Kladney?

15 COMMISSIONER KLADNEY: No.

16 COMMISSIONER YAKI: Okay. On the --

17 COMMISSIONER KLADNEY: As long as --  
18 excuse me. I just want to, for the record, state that  
19 there will be no delay in any other reports pending,  
20 according to the Director. Thank you.

21 STAFF DIRECTOR MORALES: I'd like to  
22 clarify that, if I may. No changes pending that will  
23 impact from the work that the subcommittee is doing or  
24 the work that the staff will be doing for the  
25 subcommittee. There could be other circumstances that

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1 have nothing to do with the subcommittee that could  
2 impact release of reports, so I just want to make sure  
3 that we're clear on that, that the work that we're  
4 doing, the commitment is to not impact whatever work  
5 that the staff does to help the subcommittee. Okay?  
6 Thank you.

7 COMMISSIONER YAKI: Right.

8 COMMISSIONER KLADNEY: You're saying,  
9 absent any unforeseen, absent any unforeseen  
10 occurrence of another --

11 COMMISSIONER YAKI: Yes, I mean, basically  
12 --

13 MR. MORALES: So thank you.

14 COMMISSIONER YAKI: I believe the staff  
15 director was very clear, to the extent they can help  
16 in any way that does not prejudice their ability to do  
17 any other work. Of course, if the government shuts  
18 down, all bets are off.

19 Okay. So I'm going to go back to the  
20 motion, and that is adjust the project time line to  
21 first draft set at Friday, July 12th; commissioner  
22 edits Friday, July 26th; final draft to the Committee  
23 on Friday, August 2nd; the subcommittee voting on  
24 Friday, August 16th; vote by the Commission to be  
25 determined; vote on publication date and the issue on

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1 commissioner statements to be deferred.

2 Is there any objection as to this motion?

3 Is there a second?

4 COMMISSIONER ADEGBILE: Second.

5 COMMISSIONER YAKI: That sounded like  
6 Commissioner Adegbile. Any discussion? Being none,  
7 this motion is adopted. Colleagues, thank you very  
8 much. There will be no -- any other business any of  
9 the commissioners would like to raise with regard to  
10 this and not on the agenda? Otherwise, I will adjourn  
11 the Committee. Going once, going twice.

12 **IV. ADJOURN MEETING**

13 COMMISSIONER YAKI: The subcommittee is  
14 adjourned. Thank you very much.

15 (Whereupon, the above-entitled matter went  
16 off the record at 2:25 p.m.)

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