U.S. COMMISSION ON CIVIL RIGHTS

IMMIGRATION DETENTION SUBCOMMITTEE

TELEPHONIC BUSINESS MEETING

MONDAY, MAY 6, 2019

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
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
<table>
<thead>
<tr>
<th>AGENDA</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. APPROVAL OF AGENDA...........................5</td>
</tr>
<tr>
<td>II. STATEMENT BY FORMER CHAIRMAN MARTIN CASTRO.................................6</td>
</tr>
<tr>
<td>III. DISCUSSION OF REPORT UPDATE FOLLOWING PUBLIC COMMENT PERIOD......................12</td>
</tr>
<tr>
<td>IV. ADJOURN MEETING........................................38</td>
</tr>
</tbody>
</table>
PROCEDINGS

(1:34 p.m.)

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

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

COMMISSIONER YAKI: Yes.

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

COMMISSIONER YAKI: Yes.

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

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

COMMISSIONER NARASAKI: Here.

COMMISSIONER YAKI: Is Commissioner
COMMISSIONER KLADNEY: Present.

COMMISSIONER YAKI: Is Commissioner Adegbile present?

COMMISSIONER ADEGBILE: Present.

COMMISSIONER YAKI: Is Commissioner Kirsanow present?

(No audible response.)

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

We have --

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

MR. CASTRO: Yes, Marty Castro.

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

I. APPROVAL OF AGENDA

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

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

COMMISSIONER ADEGBILE: So moved.

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

COMMISSIONER NARASAKI: Narasaki seconds.

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

II. STATEMENT BY FORMER CHAIRMAN MARTIN CASTRO

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

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

MR. CASTRO: Thank you, Commissioner Yaki, and all the Commissioners present for allowing me to say a few words on this really important topic. Some of us obviously work together on this issue, and I'm extremely pleased to see that the Commission is
continuing the work that we started in 2015. In so many ways, I think it's even more important today than it was when we began the work a few years ago, and some of those reasons are the following: Felipe Alonzo, Jakelin Caal, Mariee Juarez, and a young 16-year-old boy who died a week ago, all of whom died in the last year, most of whom died in the last six months in ICE custody. And while this is an issue of high importance at all times, I think, when we look at the fact that we have not only these children who died in our government's custody very recently over, at least as of January, over the last year, news outlets have reported that at least 22 other immigrants, refugees many of them, have died during their detention in our federal government's custody. I think this puts a special emphasis and a renewed urgency on the issue that is before you and, again, I commend you for the work that you're doing now.

As you know, during my chairmanship, we covered a number of issues, but one of which I am the most proud is the work that we did on issuing the reports that we did during the Obama Administration on *With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Centers* because it's often forgotten that, yes, these immigrants, while
they're not United States citizens, they may not even be formal approved residents or immigrants, they still have constitutional rights under our government and under our own regulation, so it's important that we emphasize that now more than ever.

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

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

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

That industrial complex of detention has grown since
2015, and I think it's important to continue to highlight that.

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

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

So as you move forward with this continued examination and investigation, I know there's many issues that you need to look at and I know from the
time I was with you that the resources are limited, the time is limited. There are a number of challenges that you have to overcome in order to be able to put out a strong report. But I hope that in this process you put a second emphasis on the deaths of Alonzo and of Mariee and of Jakelin and the yet unnamed boy who died a week ago because if you don't, if we don't highlight this and put people to task and bring accountability and bring justice to these children, their deaths will be for naught. And I know you won't allow that. I know that, hopefully, the results from this work is that no more children or others will die in the custody of our own government.

So I thank you again for letting me share a few words, and I really appreciate that you're doing this. Just so you know, I've asked members of the Hispanic caucus to host congressional hearings on this, and I am told that when this happened initially, these two children died in December, I was told then that hearings would take place. I have since reached out again to members of Congress, the Latino caucus, including Chuy Garcia, our newly-elected Congressman here in Illinois, and I'm assured that Congress will be looking at this. And so I think, in tandem with the work that Congress I hope does and the work that
you're doing, we'll be able to shine the important conscience of the Civil Rights Commission on this issue.

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

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

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

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

MR. CASTRO: Thank you, Commissioner.

COMMISSIONER YAKI: Great. With that, thank you, thank you, Chair. I hope you will have fun listening to parliamentary procedure, and thank you
again. And don't be a stranger. Keep in touch.

MR. CASTRO: Absolutely. Thank you.

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

III. DISCUSSION OF REPORT UPDATE FOLLOWING PUBLIC COMMENT PERIOD

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

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

COMMISSIONER KLABNEY: This is Kladney. I've got a few.

COMMISSIONER YAKI: Okay.

COMMISSIONER KLABNEY: I'm trying to -- we're going to take the 2015 report and outline it in
comparison to what's in the FY 19 report, correct?

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

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

COMMISSIONER YAKI: Okay.

COMMISSIONER KLADNEY: Show me some clarity.

COMMISSIONER YAKI: The issue is --

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

COMMISSIONER YAKI: Yes.
COMMISSIONER KLADNEY: What's that --

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

COMMISSIONER KLADNEY: The way I take this outline is that taking within an outline the actions that we've taken so far, and then we're going to take the FY 15 report and outline the sections that deal with the sections in number three and compare them to the FY 15 report and the FY 19 report and just compare them and then just add a couple of comments. That's what this document that I'm looking at says. Does
anybody else have a similar understanding or something different?

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

   COMMISSIONER KLANDNEY: Sure. Who?

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

   COMMISSIONER YAKI: Go ahead, Kathy.

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

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

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

   COMMISSIONER KLANDNEY: Well, I understand that. What I was saying before was we're going to take the FY 19 information and compare it to the '16
report and just add the FY 19 information using similar language and the same legal citations; is that correct? I'm asking the Committee actually because I think the Committee makes the decision, but wasn't that the vision?

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

COMMISSIONER KLASTENY: Well, we were updating it. I just wanted --

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

COMMISSIONER KLASTENY: How do you understand it?

COMMISSIONER YAKI: One at a time.

COMMISSIONER KLASTENY: How do you understand it? Because I need some help here.

COMMISSIONER NARASAKI: I understand it as our OCRE director laid it out, which is basically so we'll have an executive summary, we'll talk about the Commission's role in our process here, we'll provide a
background to the comments that we'll just pull from the statutory report that we're working on now. I'm assuming that the 2015 report, to the extent that there needs to be anything discussed, will be discussed in Part 2 but not in Part 3 because Part 2 has 2A, which is a summary of the 2015 report.

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

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

COMMISSIONER KLADNEY: Right. But all
that is currently in the '19 report. We're just going to be lifting it out of there.

COMMISSIONER NARASAKI: Right. For the Part 3.

COMMISSIONER KLANDNEY: We're not going to be doing any original research.

COMMISSIONER NARASAKI: Correct.

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

COMMISSIONER NARASAKI: Well, in terms of the background.

COMMISSIONER KLANDNEY: Well, what original research are we looking at?

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

COMMISSIONER KLADNEY: Okay. I do have another question in terms of how the report is going to look. I understand during the public comment
period that there were several comments on family detention and then there was public comments on general detention. And I think there's a proposal having the interns summarize this document under their supervision. And I was wondering whether it would be better if we included the summary of the family detention and the report proper and make an appendix or an attachment to the report on the general detention so that there's no confusion when someone is reading the report and trying to deal with family detention versus general detention. Did I make myself clear there?

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

I also wanted to respond to your issue of original research because I think, one, there is some original research that Kathy did as part of the FY 19, so I don't want to make it seem like we don't have
any. And, two, it is certainly my intention to include in the discussion information that, new information regarding this issue from the public record where there is some testimony to community jurisdiction in the Congress or other publicly-available materials into this report. Now, whether we call that original research or simply gathering information of what has already been out there is, you know, I think, a semantic issue. But it's certainly my intention to supplement the material that DHS refuse to send to us if we can find it from third-party sources that are available publicly, whether in congressional testimony or from other publicly-available means.

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

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

Is there anything else on the draft
outline as presented?

COMMISSIONER ADEGBILE: I have a question.

It was just a suggestion. Sorry. Go ahead.

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

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

COMMISSIONER YAKI: Yes.

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

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

COMMISSIONER ADEGBILE: I may have some concerns or at least need some more information about how that would work as a practical matter, knowing that that material will become final on different time
frames and, thus, is likely to not end up being completely aligned. And so, you know, there's at least a risk that it could say different things in different time frames, so I think that's a concern.

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

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

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

Anything else on the draft outline?

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

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

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

COMMISSIONER NARASAKI: Sure.

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

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

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

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

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

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

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

COMMISSIONER KLADNEY:  I got it.


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

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

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

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

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

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

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

COMMISSIONER YAKI: This is being adopted as a working document. It's not a final document, but
it will give structure to go forward.

COMMISSIONER KLADNEY: Very good.

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

(No audible response.)

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

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

Is there a second for this?

COMMISSIONER NARASAKI: I'd like to note that there also needs to be an adjustment to the publication release date, which is still July 31, was
the original date which obviously needs to be moved.

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

COMMISSIONER NARASAKI: Okay.

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

COMMISSIONER NARASAKI: Commissioner Narasaki seconds.

COMMISSIONER YAKI: Okay. Any discussion on this? I have discussion. I would like to bring up, and this will go, of course, to the publication date. We want it to be timely, but we also want this to be done correctly. I would like to be able to have, I think it's important that we have commissioner statements. I do not believe it's important to have commissioner statements, surrebuttals, rebuttals and surrebuttals, but I would like to just throw out there the idea that two weeks or a week, depending, after the adoption of the text and vote by the full Commission on the report or the subcommittee, I forget already which will suffice to do, but whatever the final action is by either the Commission or the subcommittee that commissioners have an opportunity to have a statement incorporated in the updated report.
but a statement only with no requirements and
allowance for rebuttals and surrebuttals. And
according to legal counsel, we have the ability to
deviate from A1-6 because of the special nature of
this update and, because it is not a full briefing or
a full report, we have that ability.

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

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

COMMISSIONER YAKI: Sure.

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

COMMISSIONER YAKI: Yes.

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

COMMISSIONER YAKI: My belief is that it
does. Because this is a supplement to a report and
does not have a briefing attached to it or went to a
hearing and because it's simply adding to an existing report, the usual rules of AIs do not, regarding statements, rebuttals, and surrebuttals, do not apply.

COMMISSIONER KLANDNEY: So before the Commission votes on it, the statements would be made? Is that what you're proposing and is that --

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

COMMISSIONER KLANDNEY: -- according to legal counsel?

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

COMMISSIONER KLANDNEY: Okay. So on our time line now, August 16th, you have the subcommittee voting on the report. Are we going to have the date for the Commission to vote on the report or it's going to be sometime after that? Is that how we're going to frame that?
COMMISSIONER YAKI: I think that would depend on the timing of the Commission calendar and what's on the Commission calendar, but I don't want to hem either us or the Commission date in, given that things may flip between now and then. So this is just a time line for us to get this date, get this date done and approved and moving forward. And then if we have to make any adjustments we will, but the idea being that we will have our section done by mid-August. I could see how it could be in the September meeting. Hopefully, that's when it would be for approval.

COMMISSIONER KLANDNEY: Thank you.

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

COMMISSIONER NARASAKI: Commissioner Yaki?

COMMISSIONER YAKI: -- in this report?

Yes?

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

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

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

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

COMMISSIONER YAKI: Yes.

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

COMMISSIONER YAKI: I agree.

COMMISSIONER NARASAKI: So it was my understanding that there are commissioners who are, I think very legitimately, concerned because we lost a month with the shutdown that this report, that we have to balance this report with or this whatever we're
calling it with all of the other reports that are pending, given our limited staff capacity. So I think people want to make sure that commissioners and staff are all on the same page about the priorities in terms of the other reports that need to get done by the end of the year and that the intention is, one of the reasons why we were discussing pushing back all of the dates by a month was to enable us to use the intern help that will be here this summer, which I support. Commissioner Yaki, you and I will be sharing an intern, and I think we could probably devote that intern fully to whatever needs to happen with the report. But I just wanted to make sure that all the commissioners and staff were on the same page because earlier we had discussed perhaps, like the general counsel staff had offered perhaps that they would be able to lend some support, but I think that people are concerned about how that might impact getting all the other reports done. So I just want to make sure we're clear on who's doing what.

COMMISIONER YAKI: Okay. Yes, it is a motion on the outline, as well. It's commissioners, SAs, and by that implication would be the supervision of interns. That's why they gave us pushback. It contemplates any potential staff time as a level
required and necessary. I'm actually going to discuss
with the staff director whether we could have an
intern who might be willing to simply, under our
supervision, work directly on the report. That is
separate from the intern that you and I would share,
so I'm in discussions with that right now.
But, again, the idea is not to use paid staff time to
do this to the extent that it is humanly possible, and
I appreciate you working to push back the deadlines to
allow interns to be part of what I think would be a
very educational and useful process.

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

COMMISSIONER YAKI: Staff Director?

STAFF DIRECTOR MORALES: Yes, sir. I'd
like to go ahead and weigh in here. Can you hear me?
Yes, thank you. So I think, you know, given
everybody's obviously legitimate concerns about the
impact of current reports and briefings and everything
we have pending, we've, internally amongst the staff,
have discussed how we can, you know, participate
without impacting any other deadlines we have pending
or that the commissioners have voted on. So we've
preliminarily discussed a working group amongst OCRE,
OGC [Office of General Counsel], special assistants,
and any administrative assistants we may need. We believe, you know, we can minimize, by working together as a team, minimize any impact of other time lines and assist the subcommittee in getting their document out that they wish to have.

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

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

STAFF DIRECTOR MORALES: Well, you and I had a pretty good conversation the other day, and I assured you that there would be no impact to reports,
including your report, coming. And, you know, I think the staff wants to help, and I think everybody understands that we don't want to impact any other deadlines. But if they feel that they can volunteer and assist, then we want to make sure and assure it's a high-quality report, along with all the other things that we've done, Commissioner, and I'm committed to not impact any other deadlines and make sure that we accomplish what the commissioners need and what the subcommittee would like done.

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

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

COMMISSIONER YAKI: Yes.

GENERAL COUNSEL RUDOLPH: Thank you. Commissioner Kladney, I've gone back and looked at the specific delegation that was given by the full Commission to the subcommittee, along with, at the time, what was a four-part motion by Commissioner
Yaki. And while there was, with regard to the motion, there were, of course, you know, concerns about impacting other time lines in there and, you know, as is always our concern, there was not actually a specific prohibition on staff working on this project. So I just wanted to clarify that for everyone who is on the phone. Thank you.

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

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

COURT REPORTER: Thank you.

COMMISSIONER YAKI: Any other comments, Commissioner Kladney?

COMMISSIONER KLADNEY: No.

COMMISSIONER YAKI: Okay. On the --

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

STAFF DIRECTOR MORALES: I'd like to clarify that, if I may. No changes pending that will impact from the work that the subcommittee is doing or the work that the staff will be doing for the subcommittee. There could be other circumstances that
have nothing to do with the subcommittee that could
impact release of reports, so I just want to make sure
that we're clear on that, that the work that we're
doing, the commitment is to not impact whatever work
that the staff does to help the subcommittee. Okay?
Thank you.

COMMISSIONER YAKI: Right.

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

COMMISSIONER YAKI: Yes, I mean, basically
--

MR. MORALES: So thank you.

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

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

Is there any objection as to this motion?

Is there a second?

COMMISSIONER ADEGBILE: Second.

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

IV. ADJOURN MEETING

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

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