

U.S. COMMISSION ON CIVIL RIGHTS

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MEETING EDITED

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FRIDAY, JUNE 20, 2014

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The Commission convened in Suite 1150
at 1331 Pennsylvania Avenue, Northwest,
Washington, D.C. at 9:30 a.m., Martin R. Castro,
Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

ROBERTA ACHTENBERG, Commissioner*

GAIL HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner*

DAVID KLADNEY, Commissioner*

MICHAEL YAKI, Commissioner*

MARLENE SALLO, Staff Director

* Present via telephone

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STAFF PRESENT:

MARGARET BUTLER, OCRE

PAMELA DUNSTON, Chief, ASCD

YASMIN ELHADY

LATRICE FOSHEE

DORIS GILLIAM

ALFREDA GREENE

JENNIFER HEPLER, Parliamentarian

MELANIE REINGARDT, ERO

MICHELE YORKMAN, Director, IT

COMMISSIONER ASSISTANTS PRESENT:

ALEC DEULL

KENESHIA GRANT

CARISSA MULDER

JUANA SILVERIO

ALISON SOMIN

INTERN PRESENT:

MELISA BROWER

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

2 (9:48 a.m.)

3 CHAIRMAN CASTRO: This meeting is
4 coming to order. This is a meeting of the U.S.
5 Commission on Civil Rights. It is currently 9:48
6 a.m. Eastern Time on June 20, 2014. This meeting
7 is taking place at the Commission's offices at 1331
8 Pennsylvania Avenue, N.W.

9 The Commissioners who are present here
10 at the meeting are myself and Commissioner Heriot
11 on the phone. We have Commissioner Achtenberg.

12 Commissioner Achtenberg, are you on
13 the phone?

14 COMMISSIONER ACHTENBERG: Yes.

15 CHAIRMAN CASTRO: Commissioner
16 Kladney, Commissioner Yaki, and Commissioner
17 Kirsanow. So a quorum of the Commission is
18 present.

19 Is the court reporter present? He
20 gave me a thumb up so I'll take that as a yes.

21 Is the Staff Director present?

22 STAFF DIRECTOR SALLO: Present.

23 CHAIRMAN CASTRO: Okay. The meeting
24 will now come to order. The first item is to
25 approve the agenda.

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1 **I. APPROVAL OF AGENDA**

2 CHAIRMAN CASTRO: I move that we
3 approve the agenda. Is there a second?

4 COMMISSIONER KIRSANOW: Second,
5 Kirsanow.

6 CHAIRMAN CASTRO: Okay. Are there
7 any amendments? I know we have to move to amend the
8 agenda to remove the discussion and vote on Part A
9 and Part B of the Briefing Report, increasing
10 compliance with Section 7 of the NRVA -- I'm sorry,
11 NVRA. Is there a second to that?

12 COMMISSIONER HERIOT: Second.

13 CHAIRMAN CASTRO: Okay. Are there
14 any further amendments? If none, let us vote to
15 approve the agenda. All in favor say aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN CASTRO: Okay. Any opposed?
18 Any abstentions? The motion passes.

19 Before we proceed to the next item
20 -- actually, we'll just go on to the next item.
21 Actually, we do have something that needs to be
22 clarified. I'll give the microphone to Commissioner
23 Heriot.

24 COMMISSIONER HERIOT: I just wanted to
25 put on the record Commissioner Achtenberg and I had

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1 a discussion just a little bit ago and I wanted to
2 state my understanding of what we agreed to.

3 My understanding is that Commissioner
4 Achtenberg fully supports the right of all
5 Commissioners, each Commissioner, to file a
6 statement with every report that the Commission
7 puts out and that each Commissioner will have 30
8 days to submit that statement and then 30 days for
9 rebuttal.

10 In extraordinary cases where three Commissioners
11 agree, there may be time -- there will be time for
12 surrebuttal but only in those situations where
13 three Commissioners agree.

14 And furthermore, there may be times
15 when Commissioners unanimously agree to do
16 something a little bit more quickly but that would
17 require unanimous consent of all Commissioners who
18 are involved.

19 Is that also your understanding,
20 Commissioner Achtenberg, that you would always vote
21 in favor of that and against any efforts to change
22 that?

23 COMMISSIONER ACHTENBERG: I agree
24 with that.

25 CHAIRMAN CASTRO: Thank you.

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1 So we have a number of items on the
2 program planning.

3 COMMISSIONER YAKI: This is
4 Commissioner Yaki.

5 CHAIRMAN CASTRO: Go ahead.

6 COMMISSIONER YAKI: I just want to say
7 that I don't agree with that. I don't agree with
8 the requirement and the changes to that policy. I
9 don't think we have anything that would require that
10 we add this change to any policy. It's determined
11 by majority vote and we always have. I'm not a
12 party to that understanding. I will not support
13 that change.

14 CHAIRMAN CASTRO: Thank you,
15 Commissioner Yaki.

16 We now move on to program planning
17 updates.

18 **II. PROGRAM PLANNING UPDATES**

19 CHAIRMAN CASTRO: We have six agenda
20 items today under the program planning. The first
21 is a discussion and vote on Part A and Part B of the
22 Statutory Enforcement Report: Patient Dumping.

23 As to Part A it includes the
24 substantive comments of introduction, roles of
25 government agencies, current regulations, and

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1 MTOLA enforcement mechanisms and an appendix of
2 resources. Part B are the findings and
3 recommendations put forth by Commission staff and
4 Commissioners.

5 Up for consideration is joint findings
6 and recommendations as well of the Democratic
7 members of the Commission. Do we have any
8 discussion or motions at this point?

9 Shall we take Part A first?

10 COMMISSIONER KLADNEY: I move to
11 approve Parts A and B.

12 CHAIRMAN CASTRO: Okay. We have a
13 motion to approve Parts A and B. Is there a second?

14 COMMISSIONER ACHTENBERG: Second.

15 CHAIRMAN CASTRO: Okay. Any
16 discussion?

17 COMMISSIONER HERIOT: B is what?

18 CHAIRMAN CASTRO: B is findings and
19 regs.

20 Any discussion? Hearing none, then I
21 will move to take a vote.

22 Commissioner Kirsanow, how do you
23 vote?

24 COMMISSIONER KIRSANOW: No.

25 CHAIRMAN CASTRO: Commissioner

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1 Heriot, how do you vote?

2 COMMISSIONER HERIOT: No.

3 CHAIRMAN CASTRO: Commissioner

4 Achtenberg, how do you vote?

5 COMMISSIONER ACHTENBERG: Yes.

6 CHAIRMAN CASTRO: Commissioner

7 Kladney, how do you vote?

8 COMMISSIONER KLADNEY: Yes.

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

11 COMMISSIONER YAKI: Yes.

12 CHAIRMAN CASTRO: Yes?

13 COMMISSIONER YAKI: Yes.

14 CHAIRMAN CASTRO: And I vote yes so the
15 motion passes with four yeses and two nos, two
16 opposed.

17 Next we move on to a vote on Part B of
18 the briefing report: Sex Trafficking: A
19 Gender-Based Civil Rights Violation. So this
20 includes the combined findings and recommendations
21 recommended by the Democratic members of the
22 Commission which were circulated previously.

23 Any motion on that?

24 COMMISSIONER KLADNEY: I move we
25 approve Part B. Is that correct?

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1 COMMISSIONER ACHTENBERG: I second
2 it.

3 CHAIRMAN CASTRO: Okay. Any
4 discussion?

5 Commissioner Heriot.

6 COMMISSIONER HERIOT: I just want to
7 say that I think in general we should be discussing
8 these things. We should take more time than just
9 sort of making a motion for the entire Part B but
10 I'm willing to go with it this time.

11 CHAIRMAN CASTRO: Okay. Thank you.
12 Any other comments or questions?
13 Hearing none, we're going to vote on Part B, of the
14 Sex Trafficking Report.

15 Commissioner Kirsanow, how do you
16 vote?

17 COMMISSIONER KIRSANOW: I vote no.
18 Although there are parts of this with which I could
19 agree, there are other parts that I think are over
20 broad and I can't agree with.

21 CHAIRMAN CASTRO: Thank you.

22 Commissioner Heriot.

23 COMMISSIONER HERIOT: I agree with
24 Commissioner Kirsanow on that. There are things
25 that I could agree with but we are voting on it as

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1 a package so I'm voting no.

2 CHAIRMAN CASTRO: Commissioner
3 Achtenberg.

4 COMMISSIONER ACHTENBERG: Yes.

5 CHAIRMAN CASTRO: Commissioner
6 Kladney.

7 COMMISSIONER KLADNEY: Yes.

8 CHAIRMAN CASTRO: Commissioner Yaki.

9 COMMISSIONER YAKI: Yes.

10 CHAIRMAN CASTRO: Okay and I vote yes
11 so the motion passes four yes and two opposed.

12 We are next moving onto a discussion
13 and vote on Part B of the briefing report:
14 Engagement with Arab and Muslim American
15 Communities Post 9/11.

16 And do we have a motion on approval of
17 Part B which are the findings and recommendations?

18 COMMISSIONER KLADNEY: I would move
19 that we approve them.

20 CHAIRMAN CASTRO: Okay. Is there a
21 second?

22 COMMISSIONER ACHTENBERG: Second.

23 CHAIRMAN CASTRO: Okay. Any
24 discussion?

25 COMMISSIONER YAKI: This is

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1 Commissioner Yaki.

2 CHAIRMAN CASTRO: Yes.

3 COMMISSIONER YAKI: First of all, I'm
4 trying to find what is the final version of this
5 because I don't know what it is. I submitted -- I
6 vote yes on Part B of the previous report. I've
7 always made it a point and I continue to make that
8 point. I make it to anybody who bother to ask. No
9 matter how important an issue is that we select for
10 briefing, no matter how much I may be personally
11 vested in it -- which I am on this one.

12 This is something I requested pretty
13 much the day after I joined the Commission in 2005.
14 And it took many, many years for it to occur. It
15 has always been my position that briefings reports
16 are mere snapshots of an issue. They don't receive
17 the kind of in-depth discussion background and
18 analysis from staff.

19 As our statutory reports do, they are
20 functionally limited in time and the number of
21 witnesses that we call and the amount of evidence
22 and facts and information that we gather or are
23 given from the outside.

24 It has always been my preference that
25 no matter how important the issue may be that we have

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1 these briefings to raise attention to these issues
2 and to put together team issues and set the stage
3 for further inquiry and further testimony going
4 forward.

5 To me this is no different. And I
6 submitted and distributed to my fellow
7 Commissioners my version for this report which
8 divided the issue up into key issues and what I call
9 key questions going forward.

10 Key issues are very similar to what are
11 raised by the findings and recommendations but they
12 are also different. The key questions going forward
13 are much different because instead part of these
14 questions for Congress and for others to look at to
15 develop this issue further.

16 I might say in particular with this
17 issue where we have -- continue to have enormous
18 problems from groups about discrimination,
19 hostility, prejudice, and also an undeniable
20 inadvertently burdensome surveillance system has
21 been targeted at Arab and Muslim American
22 communities.

23 Many stories and acknowledgement of
24 this kind of activity by authorities, especially in
25 New York, but elsewhere as well there have been

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1 communications that haven't fully developed using
2 our own record about a post-9/11 round up of Muslim
3 Americans and for someone whose father was among
4 those rounded up, euphemistically speaking, after
5 the Japanese attack on World War II.

6 This has especially chilling and
7 problematic aspects for me and one where I wish that
8 someone needs to look at this issue much more in
9 detail with the same kind of subpoena power that we
10 have in terms of some of our hearings and sessions
11 for enforcement report and so forth.

12 So my preference in, at least for this
13 report for reasons I put forward, I don't think
14 -- in all honesty I don't think that deviating from
15 planning and recreation is much different going
16 forward, especially as far as the intellectual and
17 factual background is concerned and I would prefer
18 to use my key issues and questions going forward as
19 a template for a briefing report. I understand I'm
20 in the minority on this but -

21 (Background noise.)

22 That is very disturbing whatever is
23 going on on the line right now.

24 CHAIRMAN CASTRO: Members, put your
25 mute on if you're not talking right now so

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1 Commissioner Yaki can conclude his remarks.

2 COMMISSIONER YAKI: Sounds like a
3 five-year-old sucking through a straw.

4 This is something -- this particular
5 issue is very near and dear to me. It's very
6 important. At the same time, I'm not going to say
7 that what we did in that briefing is so definitive
8 as to render this a be all and end all, I think, in
9 fact it requires an answer to inquiries from
10 Congress and from other fact finders because of the
11 disturbing issues raised in the testimony.

12 And I can easily accommodate the points
13 raised in the findings and recommendations that
14 were not raised in mine. I think it is pretty much
15 90 percent overlap with maybe two or three points
16 made in the findings that I did not make or some that
17 I made that were not even in the findings.
18 Nevertheless, I think we can put all this together.

19 As I said, I distributed this to all the
20 Commissioners and that would be my preference. And
21 I do not throw this open for an amendment at this
22 time. I open it for discussion and thought and see
23 where the Commission goes.

24 CHAIRMAN CASTRO: Well, Commissioner
25 Yaki, this is the Chairman. Let me just first of

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1 all, commend you for bringing this to the Commission
2 as a whole. You've been very passionate about the
3 issue even prior to my service as Chairman. And I
4 know we all work together to make sure that we have
5 a majority vote to conduct this hearing. And many
6 of us are personally invested in it.

7 COMMISSIONER Yaki: It was a briefing.

8 CHAIRMAN CASTRO: Did I say hearing?
9 I'm sorry. I meant briefing. I have many dear
10 friends that are Muslim Americans. I have spent a
11 lot of time over the last couple of years meeting
12 individuals and organizations from the communities
13 that we focused on. And so I very much feel as
14 passionate as you do about this issue.

15 What I would like to suggest to you is
16 that we amend my motion to include your key
17 questions -- I'm sorry, key issues and questions
18 going forward as either before the findings and recs
19 or after, however you would like to put them in
20 there, so that we would include both. I do feel
21 that it is important for us to make some strong
22 findings and recommendations to the extent we can
23 based on the record.

24 I agree with you as well this was merely
25 scratching the surface of the issues that the

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1 American Muslim and American Arab communities and
2 similarly situated communities are facing, but it's
3 an important first step for this Commission to do
4 this. And I would hate to have that step taken
5 without some sort of findings and recs.

6 But I do agree with everything that is
7 in your key issues and questions so I would be very
8 amenable to including both of them and then we can
9 discuss going forward how, if at all, we might in
10 the future modify a briefing report findings and
11 recommendation type of documentation. Would that
12 be acceptable to you?

13 COMMISSIONER KLADNEY: Mr. Chairman.

14 CHAIRMAN CASTRO: Mr. Kladney.

15 COMMISSIONER KLADNEY: This is
16 Kladney.

17 CHAIRMAN CASTRO: Yes.

18 COMMISSIONER KLADNEY: I believe it
19 was my motion.

20 And I --

21 CHAIRMAN CASTRO: I'm sorry. Would
22 you like us to do that?

23 COMMISSIONER KLADNEY: I'm getting
24 there.

25 CHAIRMAN CASTRO: Okay.

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1 COMMISSIONER KLADNEY: I understand
2 Commissioner Yaki's concerns and I would move to
3 amend my motion to accept both documents since they
4 are not in conflict, the findings and
5 recommendations and the other document you spoke
6 about.

7 COMMISSIONER ACHTENBERG: Second.

8 CHAIRMAN CASTRO: Okay. We now have
9 an amended motion that would include both
10 Commissioner Yaki's statement of key issues, and
11 questions going forward, and then any proposed
12 findings and recommendations.

13 Any additional discussion? Hearing
14 none, then what we will do is we'll take a vote on
15 that.

16 Commissioner Kirsanow.

17 COMMISSIONER YAKI: I'm sorry, Mr.
18 Chairman. Commission Yaki speaking.

19 CHAIRMAN CASTRO: Okay. Go ahead.

20 COMMISSIONER YAKI: Let me just say
21 that the beginning of 2005 I started having meetings
22 with the Muslim and Arab American community on this
23 topic and continually told them that we would be
24 working toward this issue.

25 What I do is in no way meant to -- at

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1 least I don't think it diminishes the importance of
2 this issue. I understand what you mean by saying
3 you want findings and recommendations. I don't
4 necessarily agree that is required as much as -- let
5 me just say this.

6 I think we have been trapped over the
7 years by this constant game of "issue gotcha" when
8 it comes to briefings where Commissioners wish to
9 have an issue that they care about come up and it
10 becomes then a proxy battleground for larger fights
11 that are out there where everyone becomes invested
12 and "I want my findings and I want more conditions,"
13 etc.

14 And again, there are too many examples
15 that I can quote you during my first six years on
16 the Commission where I felt that briefings were, for
17 lack of a better word, rigged. The voting panels
18 were skewed.

19 Not to diminish the truth or the
20 importance or the passion of any witnesses who may
21 agree or not agree with any of those things, but I
22 did feel, and I still continue to feel, that so long
23 as we have briefings in the current form like that,
24 it becomes a proxy battleground on issues that we
25 have not devoted enough time and effort and research

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1 into.

2 But then becomes churned by others
3 outside the Commission into something more. It
4 becomes as if we have created the moral
5 pronouncement, an immoral pronouncement as a civil
6 rights watch dog of the United States on issues that
7 perhaps we should not be doing precisely because we
8 have not had the skill, the expertise, or the depth
9 of research into an issue that a particular issue
10 or engagement really, really required.

11 And I strongly urge the Commission to
12 revisit its policy because that means as long as we
13 can continue it, every change to an administration
14 and every change of staff director or chairman or
15 what have you, then this simply becomes a see-saw
16 pendulum battle.

17 And whoever was in the majority before
18 will be in the minority the next time trying to make
19 the arguments I have made several as the minority
20 and majority that briefings are snapshots.

21 They are not the definitive word on
22 issues that we cannot, I think in good conscience,
23 as the watch dog of the United States say that we
24 have made findings on the subject unless we have
25 given it the kind of total scrutiny that our staff

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1 and discovery process enables us to do as we have
2 done successfully with naming reports in the past,
3 and which I hope we'll be doing with the Stand Your
4 Ground report when it finally becomes done.

5 This is something where just from a
6 practical standpoint of our credibility in going
7 forward I can see you have concerns. I appreciate
8 the fact you want to incorporate what I've done into
9 the document but it is doing so while still
10 perpetuating the type of document that I continue
11 to believe serves us for the future and is often
12 misused no matter how good our intentions or benign
13 our intentions may be on a particular issue.

14 So I am going to be agnostic on this
15 particular usage of it and I will make up my mind
16 probably in the next minute or so about how I'm going
17 to vote on it.

18 CHAIRMAN CASTRO: Thanks, Commissioner
19 Yaki. This is the Chairman. I hope that
20 agnosticism includes a vote in favor of the motion
21 because while I agree with everything you've said,
22 I don't think these are odds with one another.

23 I think that, obviously this is the
24 first time hearing of your concerns about the
25 findings and recs. I take them seriously and as

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1 Chairman I promise you that we will address them
2 going forward. I would hope that you would at least
3 consider this report a transitional document where
4 we would engage both these issues and put both the
5 findings and recs in your key questions and issues
6 in there.

7 And then going forward you would have
8 my word that we would look at how we would better
9 modify those. And as my colleagues on the right
10 know, I painfully sometimes keep my word and I would
11 do so with you.

12 So I would ask that as you consider in
13 the next minute your vote that you would consider
14 supporting your Chairman on this and we'll work
15 together going forward to address the concerns
16 you've raised today. Okay?

17 COMMISSIONER ACHTENBERG: Mr.
18 Chairman.

19 CHAIRMAN CASTRO: Yes, Commissioner
20 Achtenberg?

21 COMMISSIONER ACHTENBERG: I just want
22 to indicate that I think that the record amply
23 substantiates the proposed findings that are before
24 us and I intend to vote yes on the merge document.
25 I thought the issues that Commissioner Yaki was

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1 attempting to underscore, I think those concerns
2 are well taken. I'm particularly impressed with
3 the questions going forward.

4 I thought that was quite well
5 expressed, although I myself have not decided on
6 whether or not we should seek to have that become
7 the template for how we conduct ourselves going
8 forward. I haven't really thought of that issue to
9 the extent that I want to think about it before
10 revising the way we conduct our business.

11 But as for now, I just want to state on
12 the record that I think the proposed findings and
13 recommendations are amply supported by the record
14 that the Commission developed.

15 CHAIRMAN CASTRO: Thank you,
16 Commissioner Achtenberg.

17 Any other comments from any other
18 Commissioners before we move forward on a vote?

19 COMMISSIONER KIRSANOW: Mr. Chair,
20 Kirsanow here.

21 CHAIRMAN CASTRO: Yes, Commissioner.

22 COMMISSIONER KIRSANOW: I just want to
23 thank Commissioner Yaki for his very thoughtful
24 comments many of which I've harbored also for quite
25 some time. And although I'm not agnostic, I think

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1 it's something we want to discuss at great length
2 perhaps in a future Commission meeting so that we
3 can best discharge the functions of the Commission.

4 I also want to say to Commissioner Yaki
5 that I liked his key question going forward. Not
6 that I necessarily agree with all of them but I think
7 the approach is one that we need to examine a little
8 bit more closely.

9 CHAIRMAN CASTRO: Thank you,
10 Commissioner Kirsanow.

11 Any other comments or questions? If
12 not, I'll move forward with a vote.

13 Commissioner Kirsanow, how do you
14 vote?

15 COMMISSIONER KIRSANOW: Because I
16 don't agree with all the findings and
17 recommendations which I think are somewhat over
18 broad, I'm going to abstain.

19 CHAIRMAN CASTRO: Okay.

20 Commissioner Heriot, how do you vote?

21 COMMISSIONER HERIOT: I think for the
22 same reasons I think I will abstain as well.
23 There's a substantial amount in this report that I
24 do agree with but we're voting on it as a package.

25 CHAIRMAN CASTRO: Okay.

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1 Commissioner Achtenberg, how do you
2 vote?

3 COMMISSIONER ACHTENBERG: Yes.

4 CHAIRMAN CASTRO: Commissioner
5 Kladney, how do you vote? On your motion,
6 Commissioner Kladney, I think you might have muted
7 yourself.

8 COMMISSIONER KLADNEY: Yes I did mute
9 myself. Imagine that. Yes.

10 CHAIRMAN CASTRO: Okay.

11 Commissioner Yaki, how do you vote?

12 COMMISSIONER YAKI: I would like to
13 underscore a point that Commissioner Achtenberg
14 just made. I believe that the finding and
15 recommendations are underscored by evidence that we
16 put forward but, in many ways, that is the point that
17 I'm making which is it's limited by the evidence
18 that we decide to put into the record and do it now.
19 Do I believe that with a broader inquiry they would
20 still be sustained? Absolutely.

21 In fact, I think there would probably
22 be even more recommendations and more findings and
23 more damning information about what our government
24 has been doing with regard to its surveillance of
25 Muslims and Arab Americans. And I think that the

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1 record is even slight on the evidence of
2 discrimination against them.

3 That being said, that is precisely why
4 the other contents where the briefing record would
5 quote, unquote, "substantiate the record," I always
6 thought there was a problem because it all depends
7 on what in that brief period we decide.

8 That being said, I'll vote yes.

9 CHAIRMAN CASTRO: Thank you,
10 Commissioner.

11 And I vote yes. The motion passes with
12 four yeses and two abstentions.

13 We are now moving onto consideration
14 and vote on Commission's resolution commemorating
15 the Anniversary of the Civil Rights Act of 1964.

16 As you recall, last month we presented
17 a draft to the Commission. There were some
18 questions and revisions that Commissioner Heriot
19 wanted to make. We subsequently worked together to
20 do that. We had the Office of General Counsel
21 review that.

22 They gave us some additional comments.
23 We made some tweaks and I believe that we circulated
24 that to everybody, Juana? Okay. So we now have the
25 proclamation as revised before everyone. Is there

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1 a motion? Do we have a motion to approve the
2 proclamation on the Civil Rights Act of 1964?
3 Somebody?

4 COMMISSIONER HERIOT: I will make that
5 motion.

6 CHAIRMAN CASTRO: Okay. Thank you.

7 COMMISSIONER HERIOT: I want to state
8 on the record that I like what you and I worked out
9 between us better than what has come out here but
10 I am willing to vote for it.

11 CHAIRMAN CASTRO: Okay. Thank you.

12 Do we have a second?

13 COMMISSIONER KIRSANOW: Second.

14 CHAIRMAN CASTRO: Okay. Any
15 additional discussion on that?

16 COMMISSIONER KLADNEY: Kladney here.

17 CHAIRMAN CASTRO: Yes.

18 COMMISSIONER KLADNEY: I would just
19 like to say I understand it's a little late to edit
20 the amendments but just for the record, in the third
21 paragraph from the end where it says Martinez and
22 other people were targets, I think that we just
23 voted on the Arab American findings and recs and
24 Commissioner Yaki's questions going forward. I
25 think we should add Arab American there.

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1 And also in the next sentence I believe
2 we should have been talking about one person
3 incarcerated for the past 30 years which is a
4 declaration and we don't know if that still exists.
5 That's just a comment. I understand from what I
6 heard it's too late to change it so I am in favor
7 of this motion.

8 CHAIRMAN CASTRO: Thank you.

9 Any other comments or questions? If
10 not, we'll take a vote.

11 Commissioner Kirsanow, how do you
12 vote?

13 COMMISSIONER KIRSANOW: By its nature
14 it's acting like this is going to be imperfect.
15 Nonetheless, I agree with the essence of it and I
16 vote yes.

17 CHAIRMAN CASTRO: Commission Heriot,
18 how do you vote?

19 COMMISSIONER HERIOT: I vote yes.

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

22 COMMISSIONER ACHTENBERG: Yes.

23 CHAIRMAN CASTRO: Commissioner
24 Kladney, you've indicated you're going to vote yes?

25 COMMISSIONER KLADNEY: Yes.

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1 CHAIRMAN CASTRO: Commissioner Yaki?

2 COMMISSIONER YAKI: I vote and do so in
3 the memorandum of civil rights leaders who have died
4 in the past month including Yuri Kochiyama who was
5 one of the sparks of the Redress Movement. And, of
6 course, the great Maya Angelou. I vote yes.

7 CHAIRMAN CASTRO: Thank you. And I
8 vote yes so we have unanimous approval of the
9 proclamation. Thank you.

10 Next we're moving onto a procedural
11 discussion on how we will vote on briefing topics
12 for Fiscal Year 15. I understand we've got
13 something like 20 plus topics so I will now hand this
14 over to our Staff Director to facilitate that
15 discussion.

16 **III. MANAGEMENT AND OPERATIONS**

17 STAFF DIRECTOR SALLO: We currently
18 have 22 topics that have been submitted for review
19 to the Office of the General Counsel. Comments
20 were --

21 CHAIRMAN CASTRO: Could you move your
22 mic closer?

23 STAFF DIRECTOR SALLO: The 22 topics
24 that were submitted have been reviewed by the Office
25 of the General Counsel. Comments have been

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1 submitted to the Commissioners on their topics. We
2 have received some revised concept papers.

3 At the present time the General Counsel
4 will accept the rest of the revised concept papers
5 up until June 30th which will provide them with an
6 opportunity to do a quick turnaround and set us up
7 for a vote at the July 25th meeting.

8 Before we even move forward on
9 discussing any procedure, at the present time we
10 have a briefing scheduled for Friday, July 25th.
11 We currently have 11 panelists that have confirmed
12 and I can provide that information.

13 We are still awaiting a response from
14 two other panelists which means that we will have
15 a total of three panels in order to allow everyone
16 to present their information.

17 So my first question is -- my comment
18 is that we would need to hold a business meeting.
19 I had originally sent out an email asking whether
20 Thursday, half-day Thursday business meeting,
21 might be amenable to everyone but there are
22 conflicts with travel.

23 And so now I would ask the
24 Commissioners to advise if they are amenable to
25 staying after the briefing so that we can finish our

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1 business that afternoon.

2 And we could definitely start the
3 briefing at 9:00 in the morning rather than 9:30 to
4 give us up until 2:30 to allow ample time for the
5 panelists' discussions and questions and then
6 commence our business meeting at about 2:30 that
7 afternoon.

8 At the present time I believe that I
9 will have at least three SACs going up for review
10 that day and the gist of the business meeting would
11 be to address the concept papers before us.

12 CHAIRMAN CASTRO: I think we should if
13 folk's schedules are amenable extend the day and get
14 as much done on Friday to address those issues. We
15 must have a lunch break worked in.

16 STAFF DIRECTOR SALLO: Yes.

17 CHAIRMAN CASTRO: How long do we have
18 for that?

19 STAFF DIRECTOR SALLO: I can give
20 anywhere from 45 minutes to an hour.

21 CHAIRMAN CASTRO: I would say like 30
22 minutes probably is more than enough.

23 STAFF DIRECTOR SALLO: Thirty? Okay.

24 CHAIRMAN CASTRO: We can save some
25 time there.

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1 STAFF DIRECTOR SALLO: Okay.

2 CHAIRMAN CASTRO: That will save a
3 little extra time. I would be amenable to just
4 extending the day. I don't know what other
5 Commissioners think.

6 Commissioner Heriot?

7 COMMISSIONER HERIOT: I'm completely
8 flexible. I can do Thursday, Friday, Saturday,
9 midnight, whatever you want.

10 STAFF DIRECTOR SALLO: I can't have
11 Saturday. Staff is here Saturday. So that --

12 COMMISSIONER ACHTENBERG: What was
13 the problem with Thursday and Friday?

14 CHAIRMAN CASTRO: This is Chairman
15 Castro. I am not going to be able to get here on
16 Thursday until late in the evening so I wouldn't be
17 able to participate if we had an afternoon meeting
18 on Thursday.

19 COMMISSIONER ACHTENBERG: Okay.

20 STAFF DIRECTOR SALLO: So then the
21 next issue obviously is the fact that we have 22
22 concept papers which would require a lot of review
23 and ranking prior to a vote. So my suggestion would
24 be would folks be willing to take the top 10, maybe
25 five from each caucus, and put those forward for

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1 consideration just to allow us to move the process
2 through?

3 And before we even get into that
4 discussion, I just wanted to advise everyone we have
5 yet to receive our budget for Fiscal Year 2015. As
6 per my emails, we do have the House offering \$9
7 million to the Commission and the Senate has
8 announced \$9.4.

9 Obviously now as they work through the
10 appropriations bill they will come out with a number
11 for us. However, what I would like for everyone to
12 keep in mind is that I will be hiring employees
13 before the end of this fiscal year which then
14 diminishes any money that we may have to work with
15 until someone comes on board.

16 I plan on having an OCRE director on
17 board by the end of July. I want to announce that
18 we are losing Yasmin. She is leaving for graduate
19 school and next week on Friday is her last day and
20 it is a great loss for the Commission.

21 COMMISSIONER YAKI: Who gave her
22 permission for that?

23 (Laughter)

24 COMMISSIONER YAKI: I heard she had a
25 seven year no-trade, no-cut contract with us.

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1 STAFF DIRECTOR SALLO: Unfortunately
2 she did not but Princeton is very lucky to have her.

3 COMMISSIONER HERIOT: What is she
4 studying?

5 STAFF DIRECTOR SALLO: Yasmin, what
6 will be your major?

7 MS. ELHADY: Masters in Public
8 Policy at Princeton University.

9 COMMISSIONER HERIOT: Wonderful.

10 COMMISSIONER YAKI: Congratulations
11 to you, Yasmin.

12 COMMISSIONER ACHTENBERG: Fantastic.

13 STAFF DIRECTOR SALLO: I am bringing
14 on board an additional civil rights analyst before
15 the end of the summer. I am also filling the RPCU
16 chief position permanently. We are also filling a
17 regional director position in the Southern Regional
18 Office.

19 That being said, our budget right now,
20 irrespective of the number whether it's \$9 million
21 or \$9.4 only allows for five briefings or events.
22 We have only budgeted for five briefings or events
23 in Fiscal Year 2015.

24 At the present time we have Stand Your
25 Ground that is going forward in October. We are

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1 also planning a commemorative event for the 13th and
2 14th Amendment.

3 And we have our statutory enforcement
4 report, so based on our budget that leaves us with
5 two briefings that we can choose for Fiscal Year
6 2015 as it stands right now with the budget the way
7 it is. So that will play a role in how we move
8 forward on voting for papers as well.

9 CHAIRMAN CASTRO: So you're
10 suggesting that we as our respective caucuses come
11 back to you with five papers on each side or some
12 lesser universe of what we submitted?

13 STAFF DIRECTOR SALLO: Right. I just
14 feel that if we bring all 22 papers forward on that
15 day, it would be extremely overwhelming to rank 22
16 papers as we've done in the past, and then to vote
17 on them that day.

18 So if it was possible to reduce the
19 amount of papers for consideration, then I think it
20 would be a bit more efficient to get the votes
21 through. So it's open for discussion.

22 CHAIRMAN CASTRO: Anybody? Silence
23 is acceptance.

24 COMMISSIONER KLADNEY: My question is
25 Stand Your Ground has been on the calendar for a

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1 while so the money from that would be from the next
2 fiscal year and not this one?

3 STAFF DIRECTOR SALLO: Well, from this
4 fiscal year we can use our budget to pay for -- to
5 prepay for the actual location, but the travel of
6 all the -- of staff travel and panelist travel must
7 come from Fiscal Year 2015.

8 COMMISSIONER KLADNEY: So basically
9 what you're saying is there is no money from this
10 year that can be used on briefings next year?

11 STAFF DIRECTOR SALLO: No. You
12 cannot carryover. And budget-wise that's what is
13 always budgeted is five briefings or briefings and
14 events.

15 CHAIRMAN CASTRO: Folks, does that
16 sound reasonable?

17 STAFF DIRECTOR SALLO: So I'm just
18 placing the information so that everyone is aware
19 as we move forward what the parameters are when we
20 pick our topics.

21 CHAIRMAN CASTRO: All right.

22 COMMISSIONER KLADNEY: So when we take
23 -- I've got a question. When we take our budget
24 we've added up separate from the regional office's
25 budget, how much does it cost for each event, each

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1 briefing? Do you think it's like a million
2 dollars?

3 STAFF DIRECTOR SALLO: No. I will be
4 more than happy to speak with you about those
5 numbers and get the information from Budget. I
6 don't have that in front of me but it's not a million
7 dollars.

8 CHAIRMAN CASTRO: That would vary
9 depending on travel of the panelists here and all
10 sorts of variables.

11 COMMISSIONER KLADNEY: I'm just
12 saying on average. I mean, if our budget is \$9
13 million a year and we take out the regional offices
14 and then divide up the events and stuff into the rest
15 of it, I'm not sure per event.

16 STAFF DIRECTOR SALLO: It's not that
17 simple because we have internal cost that we also
18 have to --

19 CHAIRMAN CASTRO: Salaries and
20 benefits.

21 COMMISSIONER KLADNEY: Yes, but those
22 all support the briefing. I mean, they all support
23 that process.

24 STAFF DIRECTOR SALLO: That's a
25 separate line item.

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1 CHAIRMAN CASTRO: Maybe the --

2 COMMISSIONER YAKI: This is
3 Commissioner Yaki.

4 CHAIRMAN CASTRO: Yeah, go ahead.

5 COMMISSIONER YAKI: I had a reaction
6 to something that the Staff Director just said with
7 regards to the budget which is she said she was in
8 the process of hiring a director for the Southern
9 Regional Office. It seems to me, at least from my
10 discussions with GAO, there was some focus on
11 utility of our regional offices in our new format.

12 I'm just wondering are we -- how that
13 -- I'm not saying what we should or should not do
14 but it seems that was brought up by others because
15 it came up in mine and I did not suggest it.

16 I'm just wondering if we at the
17 Commission need to have a discussion of that in
18 anticipation of what GAO may come back with and in
19 so doing maybe not be so hasty as to hire positions
20 for something that may be up for discussion and
21 review by the Commission as a whole depending on
22 what the GAO report comes back with.

23 STAFF DIRECTOR SALLO: I will take
24 that under consideration. I'm more than happy to
25 discuss it with you Michael or any of the other

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1 Commissioners off the record.

2 CHAIRMAN CASTRO: Thank you.

3 Any other comments? If not, then we
4 will move onto the next topic on the agenda which
5 is an update on the briefing for the Department of
6 Ed's Office of Civil Rights and the Department of
7 Justice Office of Civil Rights and Enforcement of
8 Sexual Harassment Policy at Educational
9 Institutions.

10 Madam Staff Director.

11 STAFF DIRECTOR SALLO: I've kind of
12 glossed over this topic as well as what I planned
13 on discussing over the Staff Director's Report.
14 But, as I previously indicated, we do have 11
15 speakers at this time. We have confirmation from
16 the Department of Education Office of Civil Rights
17 and Department of Justice Civil Rights Division.

18 The Violence Against Women DOJ Office,
19 Mr. Ken Marcus, who was a former Department of Ed
20 OCR head, will be speaking. Greg Lukianoff from
21 the Fire will be speaking; Eugene Volokh from UCLA
22 Law School; Ada Meloy from American Council on
23 Education; Catherine Hill from American
24 Association of University Women; Anita Levy,
25 American Association of University Professors;

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1 Fatima Goss Graves from the National Women's Law
2 Center; and Chris Chapman from the National Center
3 for Education and Statistics.

4 I know that Commissioner Kladney
5 submitted the name of someone. We have reached out
6 to them and we are waiting a response. And we are
7 still trying to identify someone that works within
8 the K through 12 arenas who would be willing to speak
9 as to issues that affect K through 12.

10 We will be -- we've asked for
11 statements to be submitted by the speakers by the
12 beginning of July and we will be circulating any
13 background information for the Commissioner's
14 consideration right after the 4th of July holiday
15 in preparation for the July 25th briefing.

16 CHAIRMAN CASTRO: Any questions for
17 the Staff Director on that? None?

18 **III. MANAGEMENT AND OPERATIONS**

19 CHAIRMAN CASTRO: Then we'll move onto
20 the management and operations where I think there
21 is one matter up to address today. Is that right?

22 STAFF DIRECTOR SALLO: No, I've
23 already addressed it.

24 CHAIRMAN CASTRO: Okay. Then there's
25 no other items there so we'll move onto the SACs.

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1 **IV. STATE ADVISORY COMMITTEE (SAC) APPOINTMENTS**

2 CHAIRMAN CASTRO: We've got three
3 State Advisory Committees up. I am going to start
4 with a motion that the Commission appoint the
5 following individuals to the California State
6 Advisory Committee based upon the recommendation of
7 our Staff Director.

8 James Bolton, Percy Duran, Nancy
9 Eisenhart, John Ellis, Debra Fong, Javier Gonzalez,
10 Susan Jester, Jonathon Melrod, Velma Montoya, Brian
11 Moriguchi, Ralph Rossum, Rachel Sigman, Robin Toma,
12 and Betty Wilson.

13 Pursuant to this motion the Commission
14 appointed Percy Duran as Chair of the California
15 State Advisory Committee. These members will
16 serve as uncompensated government employees.
17 Under this motion the Commission authorizes the
18 Staff Director to execute the appropriate paperwork
19 for the appointments.

20 Is there a second to my motion?

21 COMMISSIONER ACHTENBERG: Second.

22 CHAIRMAN CASTRO: Okay. Any
23 discussion? Hearing none, we'll take a vote.

24 Commissioner Kirsanow, how do you
25 vote?

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1 COMMISSIONER KIRSANOW: No.

2 CHAIRMAN CASTRO: Commissioner Heriot
3 has stepped out. She is no longer here.

4 Commissioner Achtenberg, how do you
5 vote?

6 COMMISSIONER ACHTENBERG: Yes.

7 CHAIRMAN CASTRO: Commissioner
8 Kladney, how do you vote?

9 COMMISSIONER KLADNEY: Yes.

10 CHAIRMAN CASTRO: Commissioner Yaki,
11 how do you vote?

12 COMMISSIONER YAKI: Yes.

13 CHAIRMAN CASTRO: And I vote yes so the
14 slate passes with four yeses and one opposed.

15 I am now going to make a motion that the
16 Commission appoint the following individuals to the
17 Hawaii Committee based upon recommendations of our
18 Staff Director.

19 Amefil Agbayani, Robert Alm, Vernon
20 Char, Linda Colburn, Jennifer Li Dotson, Michele
21 Nalani Fujimori Kaina, Moses Haia III, Coleen
22 Meyer, Kymberly Pine, Waye Tanna, Jackie Young, and
23 Kate X. Zhou.

24 Pursuant to this motion the Commission
25 appoints Michele Nalani Fujimori Kaina as Chair of

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1 the Hawaii State Advisory Committee. These
2 members will serve as uncompensated government
3 employees. Under this motion the Commission
4 authorizes the Staff Director to execute the
5 appropriate paperwork for the appointments.

6 Do I have a second?

7 COMMISSIONER KLADNEY: Second.

8 CHAIRMAN CASTRO: Any discussion?

9 Hearing none, we'll move onto the vote.

10 Commissioner Kirsanow, how do you
11 vote?

12 COMMISSIONER KIRSANOW: No.

13 CHAIRMAN CASTRO: Commissioner
14 Heriot, how do you vote? Oh, sorry. I miss her
15 already.

16 Commissioner Achtenberg, how do you
17 vote?

18 COMMISSIONER ACHTENBERG: Yes.

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

21 COMMISSIONER KLADNEY: Yes.

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

24 COMMISSIONER YAKI: Yes.

25 CHAIRMAN CASTRO: And I vote yes so the

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1 slate passes with four yeases and one no.

2 I am now making a motion that the
3 Commission appoint the following individuals to the
4 Nebraska State Advisory Committee based upon the
5 recommendation of our Staff Director.

6 James Benjamin-Alvarado, Renaisa
7 Anthony, Michaelle Baumert, Beth Burkstrand-Reid,
8 Ted Hamann, William Harding, Jason Hayes, Nikitah
9 Imani, Peter Longo, Athena Ramos, Chad Richter,
10 Jose Soto, and Kimberly Taylor-Riley.

11 Pursuant to this motion the Commission
12 appointed James Benjamin-Alvarado as Chair of the
13 Nebraska State Advisory Committee. These members
14 will serve as uncompensated government employees.
15 Under this motion the Commission authorizes the
16 Staff Director to execute the appropriate paperwork
17 for the appointments.

18 Do we have a second?

19 COMMISSIONER ACHTENBERG: Second.

20 CHAIRMAN CASTRO: Okay.

21 COMMISSIONER KLADNEY: We need a
22 motion.

23 CHAIRMAN CASTRO: I did make a motion,
24 yeah.

25 COMMISSIONER KLADNEY: Oh, okay.

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1 CHAIRMAN CASTRO: What I just said was
2 the motion, yes. The motion has been made and
3 seconded. Any discussion? Hearing none, we'll
4 take a vote.

5 Commissioner Kirsanow, how do you
6 vote?

7 COMMISSIONER KIRSANOW: No.

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

10 COMMISSIONER ACHTENBERG: Yes.

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

13 COMMISSIONER KLADNEY: Yes.

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

16 COMMISSIONER YAKI: Yes.

17 CHAIRMAN CASTRO: And I vote yes so the
18 slate passes with four yeses and one no.

19 Madam Staff Director, do you have a
20 comment you want to make?

21 STAFF DIRECTOR SALLO: Yes. I would
22 like to say thank you to the commissioners for
23 getting through the three slates. I want to put on
24 the record at this point in time 75 percent of our
25 SACs are up and running. I hope to have everything

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1 up and running by the end of this fiscal year.

2 CHAIRMAN CASTRO: Great. That's
3 significant. We haven't been there in a long time
4 so great work. Thank you.

5 STAFF DIRECTOR SALLO: Thank you.

6 **V. ADJOURN MEETING**

7 CHAIRMAN CASTRO: If there is nothing
8 further, then I am going to make a motion to adjourn
9 the meeting. Is there a second?

10 COMMISSIONER KLADNEY: Second.

11 CHAIRMAN CASTRO: All right. All in
12 favor say aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN CASTRO: I'm assuming no
15 opposition or abstentions so the meeting is now
16 adjourned at the hour of 10:39 a.m. Eastern Daylight
17 Time. Thank you.

18 (Whereupon, the above-entitled matter
19 went off the record at 10:39 a.m.)

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