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U.S. COMMISSION ON CIVIL RIGHTS

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MEETING UNEDITED

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FRIDAY, JULY 17, 2015

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The Commission convened in Suite 1150 at  
1331 Pennsylvania Avenue, Northwest, Washington, D.C.  
at 10:05 a.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

PATRICIA TIMMONS-GOODSON, Vice Chair

ROBERTA ACHTENBERG, Commissioner

GAIL HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

DAVID KLADNEY, Commissioner

KAREN NARASAKI, Commissioner

MICHAEL YAKI, Commissioner\*

MAURO MORALES, Staff Director

\* *Present via telephone*

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STAFF PRESENT:

PAMELA DUNSTON, Chief, ASCD

ANGELA FRENCH-BELL

DARREN FERNANDEZ

SEAN GOLIDAY

ALFREDA GREENE

JENNIFER CRON HEPLER, Parliamentarian\*

DAVID MUSSATT, Chief, RPCU\*

LENORE OSTROWSKY

MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

ALEC DUELL

JASON LAGRIA

CLARISSA MULDER

AMY ROYCE

JUANA SILVERIO

ALISON SOMIN

KIMBERLY TOLHURST

*\* Present via telephone*

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

(10:05 a.m.)

CHAIRMAN CASTRO: Good morning. I'm  
calling this meeting to order. This is a meeting of the  
U.S. Commission on Civil Rights. Today is July 17, 2015  
and it is 10:05 a.m. We are meeting at the Commission's  
Headquarters at 1331 Pennsylvania Avenue, Northwest, in  
Washington, D.C.

I am Chairman Marty Castro. Commissioners  
who are present with me here at the meeting are Vice  
Chair Timmons-Goodson, Commissioner Narasaki,  
Commissioner Heriot, Commissioner Kirsanow,  
Commissioner Achtenberg, Commissioner Kladney.

Commissioner Yaki will be joining us by  
phone. Commissioner Yaki, are you on the phone? So,  
he will join us at some point but we do have a quorum  
of commissioners present.

Is the court reporter present? Yes. Is  
the Staff Director Present?

DIRECTOR MORALES: Yes.

CHAIRMAN CASTRO: Okay, the meeting will  
come to order. The first item is the approval of the  
agenda.

I. APPROVAL OF AGENDA

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

3           COMMISSIONER KLADNEY: Second.

4           CHAIRMAN CASTRO: Are there any  
5 amendments? Yes, Commissioner Achtenberg.

6           COMMISSIONER ACHTENBERG: Mr. Chairman, I  
7 would like to move to amend the agenda for consideration  
8 of an in memoriam proclamation upon the passing of  
9 Bonnie Milstein. And I think we would have it  
10 considered if the Chair is willing, at the beginning of  
11 the Program Planning.

12           CHAIRMAN CASTRO: Okay, are there any  
13 other motions to amend? I know that we are going to send  
14 the Wisconsin Advisory SAC back to have a little more  
15 work done. So, I want to put it on next month's agenda,  
16 instead of this one. So, that would be a motion to amend  
17 as well.

18           Any other amendments? Hearing none, is  
19 there a second?

20           COMMISSIONER KLADNEY: Second.

21           CHAIRMAN CASTRO: Okay. All those in  
22 favor say aye.

23           (Chorus of aye.)

24           CHAIRMAN CASTRO: Any opposed?

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1 (No audible response.)

2 CHAIRMAN CASTRO: Any abstentions?

3 (No audible response.)

4 II. PROGRAM PLANNING

5 CONSIDERATION OF AN IN MEMORIAM PROCLAMATION

6 ON THE PASSING OF BONNIE MILSTEIN

7 CHAIRMAN CASTRO: Okay, so the first item  
8 then is the consideration of the In Memoriam Statement.  
9 Commissioner Achtenberg.

10 COMMISSIONER ACHTENBERG: Mr. Chairman, I  
11 propose that we adopt the following statement.

12 United States Commission on Civil Rights  
13 notes with sadness the recent passing of Bonnie  
14 Milstein, Esquire. Bonnie Milstein was a passionate,  
15 life-long advocate for justice. She was fierce in her  
16 determination to assure all persons equal treatment  
17 under law. As a consummate public interest lawyer,  
18 Bonnie worked on behalf of individuals and to advanced  
19 policies that further fairness and justice.

20 Bonnie began her legal career as a legal  
21 services lawyer and then as a staff attorney with the  
22 ACLU National Prison Project.

23 In 1976, she became the supervising  
24 attorney in the General Counsel's Office of the United

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1 States Department of Health, Education and Welfare.  
2 Then, her work involved school segregation, as well as  
3 sex, age, and disability-based discrimination.  
4 Thereafter, she specialized in fair housing and  
5 disability issues, including the rights of the mentally  
6 disabled.

7 She practiced at the Center for law and  
8 social policy and then at the mental health law project,  
9 now the Bazelon Center for Mental Health Law. She went  
10 on to chair the congressionally-created Occupancy Task  
11 Force, which focused on fair housing enforcement.

12 In 1993, Bonnie joined the United States  
13 Department of Housing and Urban Development's Office of  
14 Fair Housing, where she directed enforcement of Section  
15 504, the Rehabilitation Act of 1973; Title VI of the  
16 Civil Rights Act of 1964; the Americans with  
17 Disabilities Act of 1990 and other civil rights laws.

18 After a stint in private practice working  
19 on fair housing and disability rights enforcement in  
20 2009, she returned to the Bazelon Center --

21 CHAIRMAN CASTRO: Commissioner, use the  
22 other mike instead.

23 COMMISSIONER ACHTENBERG: She returned to  
24 the Bazelon Center as the Director of Housing Policy.

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1 She practiced there until her untimely death in early  
2 2015.

3 Bonnie did serious work but did not take  
4 herself too seriously. She did righteous work without  
5 being self-righteous. She was a wonderful human being,  
6 a devoted mother and grandmother, and a delightful and  
7 committed friend.

8 With her enormous talent, intellect, and  
9 pension for hard work, she had been the arc of history  
10 toward justice, especially for people with  
11 disabilities. She is already missed.

12 And if the Commission would allow, I would  
13 like to sign the in memoriam, in addition to a signature  
14 from the Chair, if the Commission would so permit.

15 CHAIRMAN CASTRO: So, that is a motion.  
16 Is there a second?

17 COMMISSIONER KLADNEY: I'll second.

18 CHAIRMAN CASTRO: Any discussion?  
19 Discussion? I think this is definitely something we  
20 want to do. This is an individual who had a tremendous  
21 impact, not only civil rights in the United States, but  
22 clearly setting a role model for others. And I think  
23 we, as a Commission, should continue to highlight the  
24 work of individuals such as this, once they have passed.

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1 So, I fully support it.

2 COMMISSIONER YAKI: Hi, this is  
3 Commissioner Yaki. I'm sorry I got on late.

4 CHAIRMAN CASTRO: Okay, thanks for letting  
5 us know you are on. We are just -- do you have any  
6 comments or questions on Commissioner Achtenberg's in  
7 memoriam statement?

8 COMMISSIONER YAKI: None at all.

9 CHAIRMAN CASTRO: Okay.

10 COMMISSIONER YAKI: I wholeheartedly  
11 agree with it.

12 CHAIRMAN CASTRO: Okay, then I will call it  
13 for vote. Commissioner Kirsanow, how do you vote?

14 COMMISSIONER KIRSANOW: Yes.

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

17 COMMISSIONER HERIOT: Yes. Nicely  
18 written, too.

19 COMMISSIONER ACHTENBERG: Thank you.

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

22 COMMISSIONER NARASKI: Yes.

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

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1 COMMISSIONER KLADNEY: Yes.

2 CHAIRMAN CASTRO: Commissioner

3 Achtenberg, how do you vote?

4 COMMISSIONER ACHTENBERG: Yes.

5 CHAIRMAN CASTRO: Commissioner Yaki, how

6 do you vote?

7 COMMISSIONER YAKI: Aye.

8 CHAIRMAN CASTRO: Madam Vice Chair, how do

9 you vote?

10 VICE CHAIR TIMMONS-GOODSON: Yes.

11 CHAIRMAN CASTRO: And I vote yes. So, it

12 is unanimous. Thank you.

13 COMMISSIONER ACHTENBERG: Thank you, Mr.

14 Chairman.

15 CHAIRMAN CASTRO: You're welcome.

16 UPDATE ON OCRE STAFFING REQUIREMENTS TO

17 COMPLETE OUTSTANDING REPORTS

18 CHAIRMAN CASTRO: Next on the agenda is an

19 update on the OCRE Staffing requirements to complete

20 outstanding reports. I would ask our Assistant Staff

21 Director, Angela French-Bell, to please join us. She

22 provided us recently with -- actually a memorandum that

23 was sent to the Staff Director was shared with us. So,

24 you have the floor.

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1 MS. FRENCH-BELL: Good morning, Chairman  
2 Castro, Madam Vice Chair, Commissioners, Special  
3 Assistants and staff.

4 The Office of Civil Rights Evaluation was  
5 asked to look at three different things. First,  
6 whether employing additional contractors --

7 CHAIRMAN CASTRO: There is a Wi-Fi issue  
8 with the mics.

9 MS. FRENCH-BELL: -- whether having  
10 additional contractors would assist us with writing our  
11 reports. Two, we were asked about a work plan that  
12 described the best use of the contractors. And three,  
13 we were asked to recommend the number of briefings that  
14 we could reasonably hold during fiscal year '16.

15 In answer to the first question, we would  
16 definitely find it helpful to have contractors during  
17 the next fiscal year and even this fiscal year. As far  
18 as the use of those contractors, the best use, we feel,  
19 would be using them to work on the backlog of reports  
20 that we have.

21 Our suggestion is that we hire a total of  
22 four contractors. And what I have in the plan is a  
23 little bit different than what it would be now, after  
24 talking to Mauro, after he consulted with our budget

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1 manager.

2 So, the first contractor would hopefully  
3 start by August first and continue on for a six-month  
4 period. We could, hopefully, bring on a second  
5 contractor at the beginning of the next fiscal year,  
6 October first, and then phase in the other two after  
7 that.

8 The reason that it would be best to have one  
9 or two contractors at a time and not bring up all four  
10 at the same time is that one, space is at a premium at  
11 the U.S. Commission on Civil Rights. We only have so  
12 many available computers and so many available spaces.

13 The second reasons is that a liaison from  
14 the OCRE team would be required to work with the  
15 contractors and that would distract us from the work  
16 that we are doing. Although it would be a help and  
17 definitely beneficial, it still would take some of our  
18 time and resources.

19 The reason that we want to spread the  
20 contractor out over a six-month period is because it  
21 would help us to be able to one, train them adequately  
22 to be able to understand the commission reports and the  
23 way that we are currently structuring them. It would  
24 also help to build a relationship with them so that it

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1 would be easier to manage the work that they are doing.

2 As far as the order of the reports, the  
3 first report that we would like the first contractor to  
4 focus on is A Quiet Crisis. We received a letter from  
5 the Hill indicating their interest in that report. So,  
6 we will give that one top priority.

7 The second question that we were asked is  
8 what number of briefings do we think would be reasonable  
9 to hold in fiscal year '16? Our response is that the  
10 best number of reports based on our current resources,  
11 as well as the additional help of the contractors would  
12 be three. There are several reasons for that.

13 First, we want to make sure that the reports  
14 are well-researched and well-written. It takes time to  
15 adequately do that.

16 The second reason is we would still be  
17 looking and revising the reports that are already in the  
18 pipeline and that will take time as well.

19 Also, we want to make sure that there is  
20 availability to be able to add additional timely  
21 reports, as Commissioner Yaki stated. We want to be  
22 able to give you guys some flexibility to handle  
23 emerging issues. We couldn't handle a large number of  
24 reports but, in years past, it seems like that is the

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1 practice, to add additional reports. And if we had more  
2 than three, we could not do that.

3 And the last reason, and probably the most  
4 important reason is that we want to provide the  
5 commissioners that are currently on the commission the  
6 ability to be able to one, see a draft of the reports  
7 that they are proposing and two, be able to respond to  
8 that report via a statement. If we do more than three  
9 reports, we cannot guarantee that the reports that are  
10 being -- the briefings that were being done in fiscal  
11 year 2016 will have a report attached to them in a timely  
12 manner to be able to have the individuals who might be  
13 leaving the Commission during fiscal year '16 to be able  
14 to issue a statement that goes along with those reports.

15 So, for all of those reasons, we think that  
16 is the best plan, using the current resources that we  
17 have at this time.

18 And we are open to any questions that you  
19 may have.

20 CHAIRMAN CASTRO: Thank you. Do  
21 Commissioners have questions? Commissioner Kirsanow.

22 COMMISSIONER KIRSANOW: What will be the  
23 qualifications of the contractors? Where are we  
24 getting them from? And how long do you think the

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1 ramp-up period, that is when you are training them, how  
2 long do you think that will take?

3 MS. FRENCH-BELL: In answer to the first  
4 question, the qualifications that we are looking for are  
5 individuals, one, that have extensive writing  
6 experience; two, have experience doing legal research  
7 and writing; three, also have experience working for the  
8 federal government because we are thinking that would  
9 enable them to come up to speed faster.

10 In answer to your second question of how  
11 long it would take to get them up to speed, we anticipate  
12 anywhere from six to eight weeks, depending. They  
13 would still be researching during that time but it does  
14 take time to get acclimated to the commission.

15 In answer to the third question, it is our  
16 hope to bring the first contractor onboard by August  
17 first of this year.

18 COMMISSIONER KIRSANOW: And just a quick  
19 follow-up. How many man hours do you think will be  
20 expended by Commission staff in getting them up to  
21 speed?

22 MS. FRENCH-BELL: It is hard to tell. It  
23 would actually depend on the person. If there is  
24 somebody who already has experience working with the

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1 Commission, which would definitely be a bonus, then, of  
2 course, that time would be less. If there is somebody  
3 who has less familiarity with the Commission, then it  
4 would take more time. We would hope that it would take  
5 no more than four hours a week during the initial period,  
6 to be able to bring them up to speed.

7 COMMISSIONER KIRSANOW: One more  
8 question. Compensation level.

9 MS. FRENCH-BELL: We are looking at, if it  
10 is part-time, \$25,000 per contractor.

11 CHAIRMAN CASTRO: Commissioner Kladney.

12 COMMISSIONER KLADNEY: I have several  
13 questions. It is my understanding that you want to  
14 house these contractors here.

15 MS. FRENCH-BELL: Yes.

16 COMMISSIONER KLADNEY: Why can't they be  
17 contracted to do the work, come in and report, and do  
18 the work virtually?

19 MS. FRENCH-BELL: I would be possible,  
20 possibly after the first six to eight weeks. But at  
21 first when they are catching up and getting used to the  
22 Commission, it would be better to have them here, be  
23 hands-on, be able to grab any document that we need, be  
24 able to ask any questions that we have.

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1                   COMMISSIONER KLADNEY:    So, as you have  
2 analyzed these subjects, especially the Quiet Crisis,  
3 how many hours do you think that would take?  Your crew,  
4 how have they estimated and have you estimated the  
5 number of hours that these people are going to need?

6                   MS. FRENCH-BELL:    Well, we have just  
7 estimated it basically based on a time period over a  
8 period of six weeks.  We are hopeful that it wouldn't  
9 --

10                  COMMISSIONER KLADNEY:   Six weeks?

11                  MS. FRENCH-BELL:    No, sorry.  Six months.  
12 I'm sorry.  We are hopeful that it wouldn't actually  
13 take that long and that we may even be able to start on  
14 a second report during that time period, which would be  
15 a cost savings to the Commission but we are not looking  
16 at it as man hours so much as length of time.

17                  COMMISSIONER KLADNEY:   But that would be  
18 equivalent to a thousand hours -- six months.

19                  MS. FRENCH-BELL:    Right and we are saying  
20 in that time --

21                  COMMISSIONER KLADNEY:   I mean a work year  
22 is 2,000 hours.

23                  MS. FRENCH-BELL:    Agreed.  What we are  
24 saying in that time they may actually be able to do more

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1 than one report but we just have to see what the  
2 capability is of that individual.

3 COMMISSIONER KLADNEY: Okay. So, when I  
4 initially proposed this, I thought that you would  
5 propose something like pay someone \$15,000 for a final  
6 product and they would go off and do the final product  
7 and come back and report. That is what I thought  
8 contracting was.

9 But you are talking about having these  
10 people work hourly. Is that correct on a contract?

11 MS. FRENCH-BELL: Right, correct.

12 COMMISSIONER KLADNEY: And that would be a  
13 1099 or a W-2?

14 MS. FRENCH-BELL: That would probably be a  
15 W-2.

16 COMMISSIONER KLADNEY: Okay. So, now  
17 getting to the number of reports that you want to do  
18 annually, which is three, I actually feel that is quite  
19 constrained. I know perhaps we should -- Mr. Chairman,  
20 before we make a decision on this, shouldn't we hear  
21 about the budget numbers and how much money there will  
22 be? I mean, obviously, someone said there is \$35,000  
23 in the budget for this year or I guess. I'm not exactly  
24 sure.

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1                   CHAIRMAN CASTRO: You know there is a lot  
2 of issues that come into play on this decision, one of  
3 which is the budget. So, I think, at this point, if  
4 there is a question about whether we could afford what  
5 is being suggested here by OCRE, our staff director can  
6 tell us right now. We don't have to wait for the budget  
7 update. He can provide that data.

8                   COMMISSIONER YAKI: I have a question, Mr.  
9 Chairman, this is Commissioner Yaki.

10                  CHAIRMAN CASTRO: Yes. I have got a  
11 couple of other commissioners in line ahead of you.

12                  COMMISSIONER YAKI: Sure. Okay, fine. I  
13 just wanted to follow up on the money issue.

14                  CHAIRMAN CASTRO: Okay. So, I am going to  
15 have the Staff Director respond to that now.  
16 Commissioner Kladney, if you have any other questions,  
17 you can wrap them up. Then it is going to go to  
18 Commissioner Heriot, then Commissioner Yaki.

19                  COMMISSIONER KLADNEY: Well, I don't have  
20 any questions as of now but I probably will later.

21                  CHAIRMAN CASTRO: That's fine.

22                  DIRECTOR MORALES: And so in response to  
23 your question, Mr. Chairman, do we have the flexibility  
24 in the budget to do what has been proposed by the Office

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1 of Civil Rights Evaluation and the answer is yes.

2 COMMISSIONER KLADNEY: I guess the  
3 question is -- is this working?

4 CHAIRMAN CASTRO: Yes, it's working.

5 COMMISSIONER KLADNEY: The question is how  
6 -- I'm trying to figure out the mechanism here. If we  
7 are going to hire somebody now before the end of the  
8 fiscal year, are we going to take that money and contract  
9 it and set it aside from this year? And how much are  
10 we parking to cover that expense? I mean, what are the  
11 mechanics and how does it work? Because next year,  
12 there is a proposal to hire two or three extra. And then  
13 is that resulting in us only being able to do three  
14 reports? I mean all this is kind of like a moving target  
15 together.

16 DIRECTOR MORALES: And that is a really  
17 good way of describing it. It is a moving target.

18 And so what I have been given from our  
19 budget director or the best estimates at this moment in  
20 time and there is a savings that has resulted from some  
21 payroll. Unfortunately, it is not just an amount of  
22 money that is just sitting in a pot. Some of that has  
23 already been allocated for expenses that have been put  
24 off.

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1                   So, for example, some IT requirements that  
2 weren't foreseen because of some government hacking and  
3 cyber security issues that have come up in requirements,  
4 additional travel that was not anticipated for the  
5 commission, a deferred statistical analysis package.  
6 We are looking at also bringing on a contractor to assist  
7 in our audit so that we don't fall behind our audit  
8 requirements.

9                   And so in looking at all of that and adding  
10 in a figure for the current contractor proposed by the  
11 Office of Civil Rights Evaluation, it looks like within  
12 that budget allocation and savings, that we can  
13 accommodate that.

14                   There may be an opportunity to bring on the  
15 second contractor sooner. This is all within this  
16 fiscal year. Next fiscal year, we are anticipating  
17 that we would be able to bring on at least one or two  
18 others. During the course of the year, there are  
19 savings that come up that can't be completely foreseen.  
20 Barring something catastrophic that Congress would do  
21 in the budget process in the fall with a continuing  
22 resolution or a sequestration or what have you, we at  
23 least anticipate, at this time, that we would be able  
24 to bring on those two additional contractors that have

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1           been requested.

2                           Now, that could change if there is a five  
3           percent reduction in the budget because of what could  
4           happen in the fall but those are elements that we can't  
5           control at this time.

6                           COMMISSIONER KLADNEY:   Okay.  Well, what  
7           you are saying is, at least as I recall the numbers,  
8           \$35,000 can be allocated from this year's budget.

9                           DIRECTOR MORALES:   That is what we have, at  
10          this time.

11                          COMMISSIONER KLADNEY:   So, and I don't  
12          know if this a question for the rest of the Commission  
13          but if we are looking at updated four reports, do we have  
14          to update all four reports within the next year or do  
15          we want to put them -- space them out in such a fashion  
16          that OCRE can handle more than doing three briefings  
17          next year?

18                          I think three briefings is actually too few  
19          a number and I don't know what the rest of the  
20          commissioners feel.

21                          CHAIRMAN CASTRO:       Well, as I have  
22          indicated before -- this is the Chairman -- the one that  
23          I have asked to be addressed again is the Effect of  
24          Immigration Upon African American Workers.  I would

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1 like that revised before I leave the Commission.

2 COMMISSIONER KLADNEY: We also have the  
3 ones Congress asked for in the Quite Crisis.

4 So, my question is, if we have to make  
5 choices, should we make that choice or are we willing  
6 to accept three briefings? I mean I don't know if that  
7 is what you want to do in the last year as chair, three  
8 briefings.

9 DIRECTOR MORALES: I think the question  
10 here is not that it is only three briefings. The way  
11 I understood what Ms. French-Bell was saying is that we  
12 can approve three now. That gives us the flexibility  
13 in the future to do additional briefings, should other  
14 issues come up.

15 MS. FRENCH-BELL: Right.

16 DIRECTOR MORALES: So, she is not saying  
17 three only for the whole year. She is saying right now  
18 at this point in time, this is what it is going to take  
19 to be able to accomplish everything that is here, as well  
20 as some additional new projects. That is not saying  
21 that for the rest of fiscal '16 we are only going to do  
22 three new projects. Is that right?

23 MS. FRENCH-BELL: That is correct.

24 COMMISSIONER KLADNEY: Well, I heard that

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1 but I also understand that we are not going to be doing  
2 any -- that the proposal is also that we are not going  
3 to be doing anything until January.

4 MS. FRENCH-BELL: Well no, we wouldn't  
5 have the statutory report in the October/November time  
6 frame to meet our deadlines.

7 COMMISSIONER KLADNEY: But the rest would  
8 not take place until next year -- next calendar year.

9 MS. FRENCH-BELL: Correct. Yes, early  
10 next calendar year.

11 CHAIRMAN CASTRO: Okay, Commissioner  
12 Heriot and then Commissioner Yaki.

13 COMMISSIONER HERIOT: Thank you, Mr.  
14 Chairman. I have some real misgivings about the  
15 contracting thing. So, I just want to make sure we  
16 don't get in too deep right from the beginning.

17 And it sounds, to some extent, you are  
18 working with that. You are not talking about hiring  
19 four contractors. See my problem is like the number of  
20 people in the world who are really capable of writing  
21 a 100-page report that is literate and is exactly what  
22 it should be is not as high as people sometimes thing.  
23 And unlike something like nuclear engineering, there  
24 are a lot of people who think they are capable of that.

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1 CHAIRMAN CASTRO: Commissioner Heriot,  
2 hold on. We're getting you a new mic right now.

3 COMMISSIONER HERIOT: There are a lot more  
4 people who think they are capable of writing a 100-page  
5 literate report on a topic like this than there are  
6 people who really can. So, I am worried about the  
7 possibility about getting a contractor who doesn't work  
8 out. So, I really urge that we not jump into our second  
9 contractor until we have made the first one work and know  
10 that it really is working and that we are going to be  
11 able to go with what is being written and it is not just  
12 going to be a disaster that has to be reworked by other  
13 people here at the Commission. So, that is my big, big  
14 worry.

15 MS. FRENCH-BELL: Thank you for sharing  
16 that. I would also like to point out that one, we are  
17 phasing them in so that will help somewhat. And then  
18 two, there are also mechanisms in place if a contractor  
19 is not working out to remove them. So, we could also  
20 utilize that as well to help alleviate --

21 COMMISSIONER HERIOT: Two of the things  
22 that worry me, though. You said that number one, we  
23 were going to be looking for federal experience and,  
24 number two, we wanted somebody that we could supervise

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1 here. And that like limits the pool.

2 There may be somebody out in Portland who  
3 would be terrific for this and might be able to like fly  
4 in, get some instruction from you and the Staff Director  
5 and such but then work from home in Oregon or work from  
6 home in Nebraska or whatever.

7 So, I would urge you to keep an open mind  
8 on these things, given that like you really want  
9 somebody that you have got confidence in the first time.  
10 Experimenting here can be disastrous.

11 MS. FRENCH-BELL: Thank you.

12 COMMISSIONER HERIOT: And I am very, very  
13 worried. Good luck on this.

14 MS. FRENCH-BELL: Thank you. Point well  
15 taken.

16 COMMISSIONER HERIOT: On the number of  
17 briefings, I would go with fewer and fewer. So, I think  
18 three, that is a lot.

19 CHAIRMAN CASTRO: Before I pass it to  
20 Commissioner Yaki, a quick question. Do you have an  
21 idea where you are going to be seeking these contractors  
22 from already?

23 MS. FRENCH-BELL: We gave a couple of BPAs  
24 and we have got --

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1 CHAIRMAN CASTRO: What does that mean?

2 MS. FRENCH-BELL: Blanket purchasing  
3 agreements. And we would be working with the ASCD to  
4 determine which of those agencies might already be able  
5 to pull people of that caliber for us to interview. So,  
6 we would start there because that would shorten the  
7 process for bringing them onboard.

8 CHAIRMAN CASTRO: Commissioner Yaki.

9 COMMISSIONER YAKI: Yes, I actually want  
10 to agree with Commissioner Heriot on the idea of  
11 limiting the talent pool. There are even going to be  
12 people in the D.C. Metropolitan area who have, by virtue  
13 of the fact that they don't want to sit and deal with  
14 the commute in and out of the city every day, who I know  
15 are extremely talented writer and have the kind of  
16 ability and a lot of them are people who used to work  
17 on the hearing generating committee reports. I don't  
18 have anyone in mind but I just know there is a whole cadre  
19 of people out there that have that skill set. And I  
20 think requiring them to come into the use and do see  
21 time, that will limit our pool and not just because we  
22 are excluding someone in California or Maine.

23 The second point is I want to make sure that  
24 we really do have the flexibility to deal with this and

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1 to deal with issues as they come along, in case of bad  
2 performance or poor performance. And the one thing  
3 that really struck me was an answer that Assistant Staff  
4 Director gave, Commissioner Kladney's question about a  
5 1099 or a W-2. Because she said W-2, which to me reads  
6 the word employee. And once you read the word employee,  
7 then we are reading all sorts of other restrictions on  
8 our behavior. I think these are purely independent  
9 contractors. We should keep them as such. They should  
10 be 1099s. They should be at-will. They should be --  
11 and quite frankly, you are also going to limit the talent  
12 pool again if you make it a W-2 versus a 1099 position  
13 because there are some people who are former federal  
14 employees who have no desire to come back in under a W-2  
15 context because of how it might impact salaries,  
16 benefits, and others.

17 And third, W-2 can be implied, salary,  
18 benefits, and other things. And if we are trying to  
19 make this a lean and mean operation, we have got to make  
20 this an independent contractor 1099 format.

21 Those are the comments I wanted to say.

22 CHAIRMAN CASTRO: Commissioner Yaki, this  
23 is the chair. We just received confirmation from our  
24 head of HR that it would be a 1099. It would be an

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1 independent contractor.

2 COMMISSIONER YAKI: Well, then I just said  
3 a lot of stuff for nothing but thank you.

4 (Laughter.)

5 CHAIRMAN CASTRO: You know, it's not the  
6 first time but it is okay.

7 COMMISSIONER YAKI: I appreciate that.  
8 Thank you. I will endeavor to keep up to those high  
9 standards.

10 CHAIRMAN CASTRO: Okay. Anyone else want  
11 to comment?

12 I actually have one question on the memo.  
13 I think that maybe it was a misunderstanding or error.  
14 We did not approve a voter fraud, voter intimidation  
15 update. The fourth one is actually updating the Native  
16 American Report that was requested by Commissioner  
17 Narasaki.

18 COMMISSIONER NARASKI: That is the Quite  
19 Crisis one.

20 CHAIRMAN CASTRO: Okay, well, then there  
21 was no voter fraud or voter intimidation, was there?  
22 Oh, was it? Oh, Commissioner Yaki. Okay. Because I  
23 don't remember it was something from --

24 COMMISSIONER NARASKI: It wasn't. It was

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1 Commissioner Kirsanow.

2 CHAIRMAN CASTRO: Okay, so the memo should  
3 just reflect that because it caused me confusion.

4 Okay, do we -- Commissioner Narasaki.

5 COMMISSIONER NARASKI: I just wanted to  
6 weigh in on something that Commissioner Kladney noted  
7 and that Commissioner Heriot noted, and that is the  
8 number of reports that can be reasonably done.

9 I really want to commend OCRE for being very  
10 thoughtful about how to make this work because for those  
11 of you who are here who aren't familiar, the context is  
12 there was a backlog that was built up before the current  
13 OCRE came into place because, in fact, we had gaps in  
14 staffing. So, the reason that we are talking about  
15 contracts now is because we want to catch up, be  
16 responsible and catch up on those reports, as well as  
17 address some of the requests that were made by Congress,  
18 in terms of our jurisdiction.

19 And hopefully, the budget will work out and  
20 it will be easier. I think commissioners might need to  
21 make some difficult decisions because I'm still fairly  
22 new. It is my, I think, one year anniversary on the  
23 Commission.

24 CHAIRMAN CASTRO: Already?

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1                   COMMISSIONER NARASKI:    I guess.    I am  
2                   still trying to figure out how it all works.    But I do  
3                   know that there is a lot of issues that commissioners  
4                   want to take on.    We have four who might be retiring in  
5                   a year.    And so if you are talking about three reports,  
6                   one of which is the statutory report, I just think that  
7                   is not going to happen, from a practical standpoint.  
8                   And also, the Vice Chair and I have not had yet an  
9                   opportunity to have a hearing that we have shaped.    And  
10                  we really want to be able to start fully participating,  
11                  now that we have our feet on the ground.

12                  So, I am thinking that perhaps four might  
13                  be a good target.    So, I just want to weigh in on that.  
14                  I know it is a stretch for a step but I also think that  
15                  the four reports that were added, in terms of they are  
16                  not full hearings but they are meant to update already  
17                  existing reports, they are different in terms of how  
18                  much work I think is actually going to be required.

19                  The Quite Crisis one, which was requested  
20                  by Congress, which I support is going to be more  
21                  difficult because it crosses a lot of agencies.    The  
22                  Anti-Semitism Report, however, I think is more about  
23                  basic research.    It is a fairly finite target and it is  
24                  information that I think a lot of NGOs and colleges might

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1 already be collecting. So, it is more just trying to  
2 gather up information that is already out there and  
3 putting it in a coherent package.

4 Likewise, with the report that the Chair is  
5 interested in, it is about gathering up the research  
6 that has been done since that report from economists and  
7 others and putting that in context.

8 So, I just want to not that not all the  
9 reports require the same amount of heavy lifting,  
10 although, there is one, which is the Native American  
11 one, which will require heavy lifting. And hopefully,  
12 one of the things that we can look at is whether the  
13 contractor at least already has some knowledge in that  
14 are that would make it easier for that person to really  
15 move quickly.

16 So, my vote is for four.

17 CHAIRMAN CASTRO: Okay, I don't know that  
18 we need a vote on this, unless folks want to take it.  
19 I think the consensus here is obviously there are some  
20 concerns and cautions but to move along the lines, as  
21 was outlined by our Office of Civil Rights evaluation.  
22 Are folks comfortable with that? Hearing no objection,  
23 I would say you are. Madam Vice Chair?

24 VICE CHAIR TIMMONS-GOODSON: I was just

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1 going to say, Mr. Chair, that I believe that you have  
2 accurately picked up on the sentiment here. I believe  
3 that we are all impressed with what the OCRE folks have  
4 done for us. We do understand that this is unchartered  
5 territory. And we are also mindful that you, yourself,  
6 have not been here that long. So, you all are doing a  
7 masterful job.

8 The only questions come in, I believe,  
9 dealing with the details and ironing it out. And I,  
10 too, agree, with much of what Commissioner Heriot had  
11 to say.

12 So, if we will keep all of that in mind as  
13 we go forward and proceed cautiously, because we may  
14 need to return to this model again for whatever reason.  
15 But I do believe, Mr. Chair, that you have picked up on  
16 the sentiment.

17 CHAIRMAN CASTRO: Thank you.

18 MS. FRENCH-BELL: Thank you.

19 CHAIRMAN CASTRO: Thanks again, great  
20 presentation. We appreciate the work.

21 MS. FRENCH-BELL: Thank you.

22 DISCUSSION ON THE TOPIC FOR STATUTORY ENFORCEMENT

23 REPORT FOR FY 2016

24 CHAIRMAN CASTRO: Next, we are going to

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1 move on to a discussion and a vote on a topic for the  
2 2016 Fiscal Year Statutory Enforcement Report.

3 Just to clarify, I know there was confusion  
4 as to whether we were going to be voting today on other  
5 briefing topics. We can discuss the other briefing  
6 topics, particularly in light of what we have heard  
7 today but we will only be voting and making a decision  
8 today on the fiscal '16 Statutory Enforcement Report  
9 because that is the one that has a very tight deadline  
10 that we have to comply with in terms of our congressional  
11 mandate.

12 So, having said that, you all should have  
13 received a number of topics for consideration. There  
14 are two that were officially indicated for  
15 consideration of Statutory Enforcement Reports. That  
16 is, one that I submitted on laws that may -- I'm sorry  
17 -- one that I submitted on. It is a report card for  
18 federal agencies. Another is a consonant paper on the  
19 Voting Rights Act from Commissioner Achtenberg. And I  
20 understand that Commissioner Yaki has also put up the  
21 Environmental Justice paper that he has put forward as  
22 a potential consideration for statutory report, if not  
23 a briefing topic later.

24 So, we will consider those three, then,

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1 today for enforcement report. Is there -- Commissioner  
2 Heriot, did you --

3 COMMISSIONER HERIOT: I'm just wondering  
4 how those particular topics got designated as potential  
5 statutory report ones and other ones did not.

6 CHAIRMAN CASTRO: Oh, people said I would  
7 like it to be considered for. The commissioners --

8 COMMISSIONER HERIOT: I would propose that  
9 Commissioner Kirsanow's topic on discrimination  
10 against Asians be considered as an enforcement report  
11 --

12 CHAIRMAN CASTRO: Okay.

13 COMMISSIONER HERIOT: -- especially given  
14 that the Department of Education has declined to look  
15 at that issue.

16 CHAIRMAN CASTRO: All right. Then,  
17 during our discussion I am going to have each  
18 commissioner sort of give a brief overview over the  
19 paper that they are proposing. Once we have done the  
20 overviews, then we will have a discussion and then we  
21 will have a vote. Okay?

22 So, I will do mine last. Since I am the  
23 chair, I don't want to go first but why don't we start  
24 with Commissioner Achtenberg?

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1                   COMMISSIONER ACHTENBERG: Thank you, Mr.  
2 Chairman. Given that the Section 2 of the Voting Rights  
3 Act and the enforcement of same by the Department of  
4 Justice is clearly within our jurisdiction to consider  
5 as a statutory enforcement report, and given the number  
6 of laws either having been recently adopted or currently  
7 under consideration by various state legislatures that  
8 would impact or have the potential to impact access to  
9 the vote, I think it would be timely and significant for  
10 the Commission to examine those laws and proposed laws  
11 and to take a look at what the Department of Justice has  
12 been doing, is doing, and may be considering to do with  
13 regard to those laws.

14                   I think it would be timely and important,  
15 given the potential that these laws have to affect the  
16 vote. I happen to think that many of them have the  
17 potential if not the actuality of suppressing the vote  
18 but I understand that there are many opinions on that.  
19 And so I think it would be worthy of this Commission's  
20 consideration to examine that and perhaps make some  
21 judgments and/or if not judgments, certain  
22 recommendations at the very least, that might inform the  
23 way legislatures proceed going forward and might inform  
24 the way the Justice Department continues to conduct

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1           itself in that regard.

2                           CHAIRMAN CASTRO:   Are there any questions  
3           for Commissioner Achtenberg on her concept paper?

4                           Okay, hearing none, we will go on to the  
5           next one.  Then, we will circle back and have a more  
6           unified discussion about all of them.  Commissioner  
7           Yaki.

8                           COMMISSIONER YAKI:  Thank you very much,  
9           colleagues.  This is an issue that has been near and  
10          dear to my heart for any number of years when I worked  
11          for a member of Congress and when I worked as an elected  
12          official.  It is a concept that gained some traction in  
13          the mid to late '90s and actually resulted in a report  
14          12 years by the Commission called Not in My Backyard  
15          regarding the tools for achieving environmental  
16          justice.

17                          I actually want to go beyond that to talk  
18          about whether or not the federal government is  
19          adequately enforcing the issue of environmental justice  
20          as regards to Title VI of the Civil Rights Act of 1964.

21                          There are a couple of pretty interesting  
22          and, some would say, sad and tragic issues involving the  
23          siting location of coal ash deposits.  Coal ash is one  
24          of the most toxic substances that is manmade.  It is

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1 residue from coal-fired plants. It requires  
2 exceedingly intricate storage and there have been  
3 several huge accidents involving breaches of dams  
4 holding the coal ash into waterways, et cetera.

5 But the result of that has been to say well,  
6 we need to move the coal ash to other places. And  
7 invariably, unfortunately, it is resulting to political  
8 maneuvering through any number of different factors  
9 and, I think, a lack of action and activity and attention  
10 by USCPA, which is supposed to deal with some of these  
11 complaints under Title VI.

12 You would have a number of these extremely  
13 toxic landfills being sited in areas that had been  
14 concealing these zones next to poor and primarily  
15 minority communities in Alabama and elsewhere. There  
16 is an investigation going on right now in North  
17 Carolina.

18 It is something where we always wanted it  
19 in someone else's backyard but when that backyard is on  
20 poor communities of color, we have a lot of explaining  
21 to do and federal government has a lot of responsibility  
22 and justifications that they need to be involved in in  
23 enforcing to that. Not in My Backyard is not simply  
24 code word for we are going to find a poor minority

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1 community to dump the extremely toxic substances that  
2 have detrimental properties and other impacts for these  
3 communities.

4 So, I would appreciate your support in  
5 this. I think it is a good follow-up, actually, to the  
6 report, which talked a lot about the promise of these  
7 kinds of things that were supposedly in place to deal  
8 with environmental justice 12 years ago but, as we have  
9 seen, since then, especially for Perry County, Alabama  
10 and of course in North Carolina, where populations are  
11 almost 90 percent African American are finding out that  
12 their water and other systems are being located next to  
13 these extremely toxic burial grounds.

14 I think this is something worth exploring,  
15 worth bringing up again to the Commission. But looking  
16 at it from an almost point of view of how we have failed  
17 these communities and what needs to be done in order to  
18 make sure they are fully protected under the Civil  
19 Rights Act.

20 Thank you very much for your consideration.

21 CHAIRMAN CASTRO: Commissioner Yaki, I  
22 have a question. So, you are not intending to limit  
23 this only to coal ash storage, right?

24 COMMISSIONER YAKI: No, I was just saying

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1 -- yes. I mean this grew up around issues of power  
2 plants in urban areas. And there are issues of location  
3 of freeway corridors through poor neighborhoods, poor,  
4 primarily minority neighborhoods. There are any  
5 number of different instances where the principles are  
6 environmental justice and where the impact on minority  
7 communities is, there is a correlation between urban and  
8 waste siting -- urban planning and waste siting. There  
9 are many different nexuses in which this can occur and  
10 I would suggest that as this develops, to look at an  
11 urban, and a rural, and an industrial examples to  
12 illustrate the point and if you have got case studies  
13 for what EPA is or is not really doing with regard to  
14 enforcement.

15 CHAIRMAN CASTRO: Okay. Any other  
16 questions for Commissioner Yaki on his paper?

17 Okay, well seeing none, then Commissioner  
18 Kirsanow.

19 COMMISSIONER KIRSANOW: Thank you, Mr.  
20 Chair.

21 CHAIRMAN CASTRO: You're welcome.

22 COMMISSIONER KIRSANOW: This consonant  
23 paper has been around for a while in various iterations.  
24 But we are at a critical mass when it comes to the number

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1 of scholarly studies that have been conducted, actually  
2 stretching back 20 years, but there has been a  
3 proliferation of these studies that show that  
4 discrimination against Asian Americans in college  
5 admissions continues at pace and, in fact, is quite  
6 profound. When you look at what happened after Prop  
7 209, the increase in the number of Asian Americans in  
8 California System Schools, the number of Asian  
9 Americans who have been discriminated against in higher  
10 level college admissions throughout the country that  
11 has been documented in a variety of more recent articles  
12 but culminating in a complaint filed by Coalition of  
13 Asian American Students related to Harvard University  
14 filed with the Department of Education's OCRE, which  
15 complaint, and this goes right to why this would be a  
16 splendid, in my estimation, enforcement topic, OCRE  
17 chose not to pursue, chose to dismiss. At the same  
18 time, there are other discrete complaints out there by  
19 Asian American students.

20 And the evidence that is out there right now  
21 is accumulating, it is quite significant and it shows  
22 that Asian Americans are suffering as a result of  
23 certain policies implemented by a variety of  
24 universities. And I think that what we would be charged

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1 with doing is taking examination. Since OCRE has  
2 decided not to pursue it, why are they not pursuing it?  
3 Why is the federal government not pursuing what appears  
4 to be a very well-substantiated complaint on the part  
5 of Asian American students that in fact they are being  
6 treated dissimilarly from similarly situated students?

7 And it could go beyond that but I think it  
8 should be limited to something that we can handle. That  
9 is, what is the federal government doing to address  
10 discrimination against Asian American students in  
11 college admissions.

12 CHAIRMAN CASTRO: Thank you, Commissioner  
13 Kirsanow. Any questions for him on his paper?

14 Hearing none, then let me briefly present  
15 my topic. I propose that we look at various federal  
16 agencies and provide a report card on their enforcement  
17 of civil rights during the term of President Barack  
18 Obama. I think that given that many of us are terming  
19 off and that many of us have been on the Commission  
20 during the length of President Obama's term, that it  
21 would be a nice way to overview the activities in the  
22 civil rights arena during our term and during the term  
23 of the President.

24 I think it also gives us an opportunity to

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1 look at various multi-faceted issues, not just one area.  
2 Although I understand from some comments that I received  
3 in advance of the meeting from some of my colleagues that  
4 there is a concern that this might be an overly broad  
5 topic, given the resources that we have, et cetera. And  
6 I think that we can certainly limit the number of  
7 agencies that we look at and perhaps even, within those  
8 agencies, focus on some specific topics that we could  
9 agree on so that is not as encyclopedic a project as it  
10 may appear. But I think it does give us a unique  
11 opportunity to focus on different areas, different  
12 agencies and to do it in an omnibus fashion. And it  
13 also, I believe, would be a nice way to close some of  
14 our terms on the commission.

15 So, I know you have read more detail than  
16 that but that is essentially what I am proposing that  
17 we try to do with this. And I am happy to answer any  
18 specific questions.

19 Okay, hearing none, let's -- so, we have got  
20 four papers that have been presented to us for  
21 consideration for the enforcement topic for fiscal '16.  
22 The Office of the Staff Director has informed me that  
23 his request to General Counsel's Office has reviewed the  
24 jurisdiction of each of these papers and it has been

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1 confirmed that they are all within the jurisdiction of  
2 the mandate of our jurisdiction. So, there is no issue  
3 there.

4 I don't know how folks would like to  
5 proceed. Commissioner Achtenberg?

6 COMMISSIONER ACHTENBERG: Just discussion  
7 in general before we --

8 CHAIRMAN CASTRO: Yes and then, at some  
9 point, we will have a motion or we could do a motion and  
10 then discussion. But I figure it might be unfair just  
11 to put one of these up as a motion.

12 COMMISSIONER ACHTENBERG: Sure.

13 CHAIRMAN CASTRO: So maybe we could have a  
14 discussion and see where the consensus goes. And then  
15 based on that consensus, someone could make a motion.

16 COMMISSIONER ACHTENBERG: I think these  
17 are all excellent topics, worthy of the Commission's  
18 consideration. I am in the unusual posture of liking  
19 somebody else's better than mine. So, I want to  
20 indicate that I am going to be voting in favor of  
21 Commissioner Yaki's paper to examine the environmental  
22 impacts, and the possible racial implications of same,  
23 and the enforcement or lack of enforcement being  
24 undertaken by the appropriate agencies.

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1 I think that is timely, significant, and I  
2 think our examination of that topic would be extremely  
3 important and add something to the discourse that hasn't  
4 been there before. So, I am very much in favor of making  
5 that the statutory enforcement topic.

6 CHAIRMAN CASTRO: Commissioner Kladney.

7 COMMISSIONER KLADNEY: I concur with  
8 Commissioner Achtenberg.

9 CHAIRMAN CASTRO: Oh, is that all? Okay.

10 (Laughter.)

11 CHAIRMAN CASTRO: Madam Vice Chair.

12 VICE CHAIR TIMMONS-GOODSON: Mr. Chair, I  
13 agree with Commissioner Achtenberg about the quality of  
14 all of the topics that have been proposed. Truthfully,  
15 I am conflicted.

16 I believe that the environmental issue is  
17 certainly important. The voting rights issue is  
18 certainly important. But I believe that if we were to  
19 focus some additional attention on the environmental  
20 issue, we would have an opportunity to make a real  
21 contribution. I believe that much has been and will be  
22 said about the Voting Rights Act. Everybody is talking  
23 about it and many are looking at it. But I think that  
24 this environmental issue is a way for us to stand out

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1 and to do some heavy lifting. And so I will be  
2 supporting Commissioner Yaki's proposal.

3 CHAIRMAN CASTRO: Any other commissioner  
4 want to comment? Commissioner Heriot.

5 COMMISSIONER HERIOT: I just want to be  
6 grumpy. That is, I am not making a comment on  
7 particular comments here. I am going to be out-voted  
8 no matter what. Just, in the future, please will  
9 somebody propose an enforcement report that actually  
10 specifically says exactly what we are going, you know,  
11 the very narrow topic that we can make a real  
12 contribution, not just sort of spouting off about a  
13 general issue but like measuring something, having OCRE  
14 look into some very particular statistic and generate  
15 something that otherwise isn't out there.

16 And I don't see that any of these topics  
17 really do a good job of that. And it is because it is  
18 hard to come up with and I don't blame the commissioners  
19 having a hard time coming up with that perfect  
20 enforcement report kind of topic. But like one day can  
21 we please do something that we are coming up with  
22 research that is new and that people are going to look  
23 at and say this really sheds light on the topic that  
24 nobody else has been able to shed that kind of light on.

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1                   And it is not writing a concept paper that  
2                   just talks about a general topic. It has got to be  
3                   forming exactly what the research -- and I can see our  
4                   OCRE had a smile. You know she wants this, too, one day.

5                   CHAIRMAN CASTRO: Commissioner Kirsanow.

6                   COMMISSIONER KIRSANOW: In that vein, I  
7                   want to make one last pitch. You know I am going to get  
8                   out-voted for my topic, which is very narrow and I think  
9                   is very timely, and it is constrained to looking at what  
10                  one individual agency is doing in terms of its  
11                  enforcement of civil rights law related to higher  
12                  education and at least numerous allegations of  
13                  discrimination against Asian Americans.

14                  I actually like Commissioner Yaki's topic.  
15                  As far as an Enforcement Report is concerned, I think  
16                  the Chair's proposal is a good one, although I think it  
17                  is, perhaps, too expansive for OCRE to get its hands  
18                  around.

19                  But with respect to my topic, it is timely  
20                  from the standpoint of only within the last couple of  
21                  weeks OCRE has made a determination with respect to the  
22                  Coalition of Asian American Students' complaint.

23                  We have got Fisher versus Texas has been  
24                  taken up by the Supreme Court and it is going to probably

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1 be issued sometime prior to when the statutory report  
2 would come out but it would be very timely.

3 And we have had a couple of efforts in  
4 recent years to repeal Prop 209. One of those efforts  
5 was beaten back by a lot of folks in California. And  
6 I just think I would make another pitch for it and if  
7 it is not a statutory enforcement report, at least a  
8 briefing topic.

9 CHAIRMAN CASTRO: Commissioner Narasaki.

10 COMMISSIONER NARASKI: I also like the  
11 Chair's approach. And if we did not have the backlog  
12 that we already have with reports, it would be something  
13 that I would have supported. But I just feel, given the  
14 presentation we had, the amount of work, even if it was  
15 three agencies instead of a dozen agencies, it would  
16 still be like doing three different kinds of reports.  
17 So, I just feel we don't, unfortunately, have the  
18 capacity to take that on.

19 And on Commissioner Kirsanow's, I remember  
20 that he actually presented this topic when I first  
21 started on the Commission. And I think I told him then  
22 that it was something I was interested in exploring but  
23 I would want to significantly reshape the direction it  
24 is taking, particularly now since the Supreme Court has

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1 taken up again the issue of affirmative action. And I  
2 think the paper is framed more as a critique of  
3 affirmative action, which is something I support  
4 because I do believe that it is in the best interest of  
5 college students to learn in very diverse environments.  
6 And that is, in fact, a very important component of  
7 education.

8 But I am concerned that perhaps with  
9 schools who use whole file reviews that there might be  
10 implicit bias creeping in, in terms of stereotypes about  
11 Asian American students. His paper does not point out  
12 the disparity that Asians face in terms of test scores  
13 and grades with white students, which I find interesting  
14 and should require some exploration as to why that is  
15 happening. Not that I think that test scores and grades  
16 are the sum total of an individual student because they  
17 bring other life experiences to the table but I do think  
18 the fact that there is that persistent significant gap  
19 between Asians and Caucasian student, that that is  
20 something that I would actually be interested in  
21 potentially exploring and I look forward to talking to  
22 you because we still will be talking about briefing  
23 reports.

24 So, I find myself very interested in

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1 Commissioner Yaki's submission, precisely because I  
2 don't think that there has been very much light shed on  
3 environmental justice and I think that is where, in  
4 fact, the Commission could really highlight and make a  
5 contribution. And so, I am very supportive of that.

6 I am torn because I think Commissioner  
7 Achtenberg's suggestion about looking at the Department  
8 of Justice Civil Rights Division enforcement of voting  
9 rights would be very timely but I think that there is  
10 a lot of debate already going on and a lot of examination  
11 happening about voting rights. And so I think we could  
12 make a better, more significant contribution in the area  
13 of environmental justice.

14 CHAIRMAN CASTRO: Any other comments from  
15 commissioners?

16 Well, obviously, I was proposing my paper  
17 but I think, going into this meeting, I anticipated that  
18 it might not have the consensus, given the issues of  
19 bandwidth that we were discussing earlier today. And  
20 so for me, it really was looking at the voting rights  
21 and the environmental justice paper, both of which are  
22 important topics.

23 I share Commissioner Narasaki's concerns  
24 about Commissioner Kirsanow's paper, which I wasn't

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1 thinking about before the meeting because I didn't  
2 realize it was going to be an enforcement topic until  
3 here.

4 But in the end, I think that I will end up  
5 voting with my personal gut on this because I come from  
6 a community in Chicago on its southeast side that is  
7 predominately Latino with a large African American  
8 population as well that has, for many years, suffered  
9 from environmental injustice. It is a huge cancer  
10 cluster, pet coke issues, the old steel mills. Many of  
11 my family members who worked in those mills died of  
12 cancer. And so we are right next to a big garbage dump.

13 And so it is my hope that should that paper  
14 be the one that we choose, and I will entertain a motion  
15 and if it is the paper that is moved, I will vote for  
16 it, that we would make sure that we look at that  
17 community on the southeast side of Chicago, along with  
18 some of the communities that were mentioned in the  
19 concept paper and, in particular, the Latino and African  
20 American communities in that part of Chicago.

21 Commissioner Narasaki?

22 COMMISSIONER NARASKI: Yes, I would like  
23 to make a motion, if that would be in order.

24 CHAIRMAN CASTRO: Go ahead.

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1                   COMMISSIONER NARASKI:   So, I would like to  
2                   move the adoption of Commissioner Yaki's proposal on  
3                   environmental justice as our statutory report.   And I  
4                   would like to add to that motion that we, upon adoption,  
5                   also sent out a press release noting that that is  
6                   something that we have adopted, so that the people, the  
7                   stakeholder community can know and start being prepared  
8                   and start sending things in to our office so that we can  
9                   get a running start at that.

10                  COMMISSIONER KLADNEY:   I'll second that  
11                  motion.

12                  CHAIRMAN CASTRO:    Okay.    Is there any  
13                  additional discussion now?

14                  COMMISSIONER YAKI:   This is Commissioner  
15                  Yaki.

16                  CHAIRMAN CASTRO:    Go ahead.

17                  COMMISSIONER YAKI:   Mr. Chair, first, I  
18                  want to thank my colleagues for their kind remarks about  
19                  this topic.   As I said, this is something that has  
20                  deeply concerned me for years and the magnitude of the  
21                  issue, as you describe it in your own community, Mr.  
22                  Chair, I think is important.   And I would say that it  
23                  would be my intent, and I think the Commission's intent,  
24                  that we ensure that we look at -- we will get suggestions

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1 for case studies to look at and I would definitely say  
2 that that should be one of them.

3 I do think that we should look at it in terms  
4 of urban, and rural, and other factors as well, because  
5 this is not just confined to remote areas or where there  
6 are minority communities. As you said, there are  
7 concentrated clusters of people in neighborhoods in  
8 Chicago and other places in this great nation where city  
9 planners, for better or for worse, and many for worse,  
10 just to make these neighborhoods the dumping grounds for  
11 everybody else. And I think we can make a real  
12 contribution to awareness and enforcement or lack  
13 thereof on something that goes to how people live and  
14 breathe and die in this country.

15 And as someone who grew up and still has  
16 asthma, I can tell you that the prevalence of asthma  
17 among young African American children who live in the  
18 shadows of major freeways that wind their way through  
19 poor neighborhoods in this country is truly astounding  
20 in a health crisis and health epidemic that no one seems  
21 to fully grasp.

22 So, I think this is a very important topic.  
23 I thank all my colleagues for their great comments.  
24 They have all had great papers, too.

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1                   I agree that Chairman Castro's proposal may  
2                   have had a bandwidth issue but it is certainly something  
3                   that has been part of the history of this Commission over  
4                   the years. We used to have a federal funding report  
5                   that examined federal funding for the civil rights  
6                   functions of all agencies. For years, it was a good  
7                   benchmark that researchers, advocates, non-profits,  
8                   people who are interested in these issues could use to  
9                   see what the federal government's commitment to civil  
10                  rights has been and that was derailed over the past few  
11                  years.

12                  Part of me is very sympathetic, obviously,  
13                  with what Commissioner Kirsanow has brought up but I  
14                  also share the concerns of Commissioner Narasaki that  
15                  she brought up as well. And I look forward to  
16                  continuing the dialogue with Commissioner Kirsanow on  
17                  these issues because, certainly, if there are quotas,  
18                  if there an implicit bias creeping into admissions, then  
19                  that is something that needs to be addressed so that no  
20                  student, in particular Asian American students, in a  
21                  generation that is far different from the college  
22                  environment that both Karen and I, Commissioner  
23                  Narasaki and I both went into, it is wholly different.

24                  And Commissioner Achtenberg, you know I

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1 commend you for your continued zealous advocacy on the  
2 issue of the Voting Rights Act and this is important.  
3 It was the reason for this Commission coming into being.  
4 And I appreciate, but I doubly appreciate your support  
5 of my topic.

6 CHAIRMAN CASTRO: I'm going to call the  
7 motion for a vote.

8 Commissioner Kirsanow, how do you vote?

9 COMMISSIONER KIRSANOW: Yes.

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

12 COMMISSIONER HERIOT: Is there a motion?

13 CHAIRMAN CASTRO: Yes, there was a motion  
14 made by Commissioner Narasaki and seconded by  
15 Commissioner Kladney.

16 COMMISSIONER HERIOT: So, this is on the  
17 environmental justice one only.

18 CHAIRMAN CASTRO: Yes and a press release  
19 to accompany the --

20 COMMISSIONER HERIOT: I think it is a fine  
21 topic for briefing. I would vote for it as a briefing.  
22 I am going to abstain as to an enforcement report.

23 CHAIRMAN CASTRO: Okay. Commissioner  
24 Narasaki, how do you vote?

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1 COMMISSIONER NARASKI: Yes.

2 CHAIRMAN CASTRO: Commissioner Kladney,

3 how do you vote?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIRMAN CASTRO: Commissioner

6 Achtenberg, how do you vote?

7 COMMISSIONER ACHTENBERG: Yes.

8 CHAIRMAN CASTRO: Commissioner Yaki, how

9 do you vote?

10 COMMISSIONER YAKI: Aye.

11 CHAIRMAN CASTRO: Madam Vice Chair, how do

12 you vote?

13 VICE CHAIR TIMMONS-GOODSON: Yes.

14 CHAIRMAN CASTRO: And I vote yes. So,

15 that is seven yeases and one abstention. The motion

16 passes. Thank you.

17 DISCUSSION ON NUMBER OF BRIEFING TOPICS AND

18 REPORTS FOR FY 2016 PROJECTS

19 CHAIRMAN CASTRO: I also had on the agenda

20 for today discussion of the additional concept papers

21 for potential briefing reports. My intention was not

22 that those be voted on today but that we had a

23 preliminary discussion about those and then vote on them

24 at the August meeting.

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1 I am open to suggestions on how we might  
2 want to proceed. If that is something folks are  
3 comfortable with and do we want to, between now and the  
4 August meeting, rank them in some way or just, at this  
5 point, kind of go through them and determine maybe even  
6 now, determine which ones seem to possibly fit what will  
7 now be two other reports.

8 So, obviously, we are going to be making  
9 some tough decisions and I am hoping that this will help  
10 us make those decisions when we do come to it.

11 Any thoughts?

12 COMMISSIONER YAKI: Mr. Chair?

13 CHAIRMAN CASTRO: Yes, Commissioner Yaki.

14 COMMISSIONER YAKI: I believe I may have  
15 submitted an additional report for consideration. I  
16 withdraw that, obviously because of the statutory  
17 report being approved. So, I want that taken out of  
18 consideration.

19 Should someone want to adopt that as their  
20 own, they are free to and they may talk to Kimberly  
21 Tolhurst, my Staff Assistant, but I will officially  
22 withdraw it from my sponsorship to the addition because  
23 I will let others have the opportunity for the limited  
24 number of briefings.

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1                   COMMISSIONER HERIOT: This is the racial  
2 incidents on campus you are withdrawing?

3                   COMMISSIONER YAKI: I am withdrawing my  
4 sponsorship of that. If someone else wishes to take  
5 that up, they may.

6                   COMMISSIONER KIRSANOW: I will.

7                   COMMISSIONER HERIOT: I will sponsor it.

8                   CHAIRMAN CASTRO: Okay, so let's do this.  
9 Let's go down the list and if commissioners will -- I'll  
10 call the paper and then if you all could give a very brief  
11 thumbnail as to the paper that you are supporting and  
12 why it should be a briefing topic. I'm just going to  
13 look at my stack here and call them in no particular  
14 order.

15                   We are only going to choose two but I think  
16 anyone who submitted a paper should, unless they are  
17 going to withdraw it, you know propose or defend their  
18 paper, however you might want to see it.

19                   Commissioner Achtenberg, you had a  
20 question? Oh, I saw your pen up.

21                   Commissioner Heriot, why don't you give us  
22 your views on your proposal on -- what is the topic over  
23 here? I have got the report.

24                   COMMISSIONER HERIOT: Can I pass until I

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1 have had a chance to look at it again?

2 CHAIRMAN CASTRO: Okay. Commissioner  
3 Narasaki.

4 COMMISSIONER NARASKI: Thank you. My  
5 proposal is to look at the public education funding in  
6 equality at a time where we have an increasing  
7 concentration of poverty and re-segregation.

8 The Commission has a very long history of  
9 looking at the challenges that our country has had in  
10 terms of providing equal access to quality education for  
11 all communities, which has been particularly a  
12 challenge for African Americans, Latinos and Native  
13 Americans.

14 You know there has been fairly recent  
15 reports looking at the disparities. In my paper, I talk  
16 about the fact that in Philadelphia, for example, one  
17 school the parents and teachers actually had to buy  
18 paper and office supplies for the school. And yet, less  
19 than ten miles away in a more affluent suburb, students  
20 had access to laptops and a social worker, just ten miles  
21 apart.

22 So, there is obviously disparities between  
23 states, given how public funding necessarily happens  
24 but I am really concerned about the disparities, even

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1 within a particular state, which I think is very  
2 troubling.

3           There is a lot of jurisdiction, in terms of  
4 the Department of Education's responsibilities,  
5 particularly under the Elementary and Secondary  
6 Education Act, which, as many of you know, is currently  
7 being debated today on the Hill. There is a bipartisan  
8 package that civil rights advocates are concerned will,  
9 in fact, make the problem even deeper because of the lack  
10 of enforcement measures to get states to do something  
11 about the disparity.

12           And we spent a lot of time, and I want to  
13 thank my Special Assistant, Jason Lagria. We spent a  
14 lot of time talking to a lot of researchers about the  
15 topic to make sure that we had a good handle and because  
16 we knew the Elementary and Secondary Education Act was  
17 up for reauthorization this year. And they assured us  
18 that, unfortunately, nothing in the Act was going to  
19 really redress the problems that we are raising.

20           The second layer of the paper would  
21 actually look at HUD's responsibilities for fair  
22 housing. There has been some interesting research that  
23 points to segregated housing as really one of the basic  
24 drivers of this disparity in public education funding.

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1 And the HUD has put out some recent interesting  
2 regulations that they hope to start to address that.  
3 So, I think it would be a timely topic to look at how  
4 the housing policies also affect this issue.

5 And so I am hoping that my fellow  
6 commissioners will find this a compelling topic.

7 CHAIRMAN CASTRO: Thank you, Commissioner  
8 Narasaki. Madam Vice Chair.

9 VICE CHAIR TIMMONS-GOODSON: Thank you,  
10 Mr. Chair.

11 I proposed, first, a paper that I have  
12 entitled "A Search for Justice or a Quest for Revenue"  
13 assessing the civil rights of African American debtors,  
14 whose fees are supporting state and local budgets.

15 Given my past life of approximately 30  
16 years in the judiciary of North Carolina, I have read  
17 and seen extensively how the individuals that are  
18 involved in our justice system, the participants most  
19 often in the criminal context increasingly are being  
20 called upon to bear the expense of expenses of running  
21 not only a branch, the judiciary, but also local  
22 governments using and needing these funds.

23 And so I thought it appropriate for us to  
24 take a look at that.

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1                   Some of you may recall that the Department  
2 of Justice, as they went in and took a look at what was  
3 going on in Ferguson, pointed out that there were  
4 predatory practices in place. That does not reflect  
5 well on our judicial system. And so I hope that we will  
6 take a look at that.

7                   I also have submitted a paper shifting  
8 prison costs to families in the area of private prison  
9 contracts. We saw first-hand, as we visited the Family  
10 Detention Center in Texas, individuals that go into  
11 prison must continue to maintain to live. They seek to  
12 maintain contact with their family members and with the  
13 outside world to the greatest extent possible and we saw  
14 right in place there, machines where you paid for  
15 telephone cards and you paid in order to have  
16 individuals bring money in to you.

17                   And I would like for us to take a look at  
18 all of that and ask your support for those two topics.

19                   CHAIRMAN CASTRO: Thank you Madam Vice  
20 Chair. Commissioner Heriot, have you had a chance to  
21 review your paper?

22                   COMMISSIONER HERIOT: Yes, my paper is  
23 about the notion of over regulation of the employment  
24 relationship puts young people at a disadvantage for

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1 getting their first job. And part of the reason I think  
2 that we see the current phenomenon of internships for  
3 young people, unpaid internships, I should add, is that  
4 it is much more dangerous today for an employer to hire  
5 an employee who has no track record than it would have  
6 been 50 years ago when at-will employment and very  
7 little regulation of the employment relationship  
8 existed.

9 And so we have developed this institution  
10 of A, unemployment for low-skilled young people and B,  
11 unpaid internships where they have to prove themselves  
12 at no pay for higher skilled, college educated young  
13 people.

14 And I think we need to rethink whether the  
15 structure of our employment law, including employment  
16 discrimination law doesn't put young people at a  
17 disadvantage and if there is not some way that we can  
18 at least make minor adjustments to the law that would  
19 make it easier for young people to get their foot in the  
20 door.

21 CHAIRMAN CASTRO: Thank you, Commissioner  
22 Heriot.

23 I forgot to ask if there were any questions  
24 on any of the prior papers, at this point. If none,

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1 Commissioner Achtenberg, you have a paper on the  
2 baccalaureate attainment gap. And also, if you could  
3 let us know if you still want your voting rights paper  
4 also considered as a briefing topic or if you are just  
5 going to propose this.

6 COMMISSIONER ACHTENBERG: I am just going  
7 to propose this.

8 CHAIRMAN CASTRO: Okay.

9 COMMISSIONER ACHTENBERG: If someone else  
10 wants to propose voting rights, they are more than  
11 welcome.

12 CHAIRMAN CASTRO: Okay.

13 COMMISSIONER ACHTENBERG: This is the  
14 logical successor to the first inquiry on the  
15 baccalaureate attainment gap. This proposes to  
16 examine what addressing the baccalaureate attainment  
17 gap, the positive and salutary impact that that would  
18 have on the national economy. It would examine the  
19 effects of rising tuition and the impact of the debt load  
20 upon minority students. It would examine the  
21 significant problem of declining state investment and  
22 the direct relationship between that and rising costs  
23 of college, including tuition costs. And finally, it  
24 would examine proposals to eliminate the cost of college

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1 attendance, as well as the proposals that would attempt  
2 to address the debt, making it more easy to bear the debt  
3 load that students already have incurred.

4 So, we would look at tuition-free college,  
5 debt-free college, as well as the salutary impact that  
6 addressing the attainment gap would have for the  
7 national economy. This is a significant issue. The  
8 drag on the economy of the achievement gap is  
9 significant. The drag on the economy for young people  
10 in general, as well as minority students, in particular,  
11 of the debt load that is currently being borne by  
12 students graduating from college is quite significant.

13 And I think building on our work on the  
14 prior issue, I think we could make a significant  
15 contribution in this area and kindle some real interest  
16 in turning this around. The kind of disinvestment that  
17 has been taking place in state after state is shameful,  
18 in my opinion, and it wouldn't be that hard to turn this  
19 around and the United States could then go from 32  
20 percent of our population, achieving the baccalaureate  
21 degree but someplace closer to 40 percent, which is  
22 where competitive nations are going to need to be in the  
23 years upcoming.

24 I mean there is no reason we can't do this

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1 and minority students, in particular, are paying the  
2 highest price for our failure to do this.

3 So, I would like my colleagues'  
4 consideration of this sequel paper.

5 CHAIRMAN CASTRO: Any questions for  
6 Commissioner Achtenberg? None? Okay, Commissioner  
7 Kladney, you only have four papers you are proposing.

8 COMMISSIONER KLADNEY: But I will speak  
9 with them all at once.

10 CHAIRMAN CASTRO: Oh, go ahead.

11 COMMISSIONER KLADNEY: So, I have been on  
12 the Commission four years and those who have been here  
13 with me and have suffered through my term, know that I  
14 have been big on criminal justice.

15 And I think the four papers are fairly  
16 self-explanatory. I think criminal justice is finally  
17 coming to the forefront of the public attention. I know  
18 the CATO Institute, the congressional Republicans and  
19 Democrats, the administration are all trying to address  
20 our prison populations. Our prison populations and  
21 jails, local jails, have become our mental health  
22 centers. The use of solitary confinement compounds  
23 this problem.

24 Collateral consequences, it is not that you

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1 can't vote anymore when you get out of prison or carry  
2 a gun but you can't go into public housing. You can't  
3 get school loans. There is a plethora of items from  
4 state to state that you can and cannot get.

5 As you know, I have had narcotics  
6 enforcement. I have presented that every year I have  
7 been on the Commission and I have gotten nowhere with  
8 it. Yet, this has to do with sentencing and fairness  
9 in sentencing. You could even expand it. I see that  
10 a lot of jurisdictions now are taking minor offenses  
11 and, rather than making them criminal offenses, are  
12 making them civil in nature.

13 And as we saw during our Commissioner  
14 Kirsanow's paper on criminal background checks, the  
15 effect that any kind of conviction now, not just merely  
16 a felony conviction, has on people's lives and their  
17 families' lives, and their children.

18 Like I said, I don't think I have to go into  
19 great length. I think they are fairly  
20 self-explanatory. I know that collateral consequences  
21 was approved last year but was pushed off as a result  
22 of our New York briefing.

23 So, I would leave it to the Commission to  
24 decide. I know we have been told we can only do three

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1 -- have capacity for three. I think there are other  
2 alternatives so that we can get four scheduled and still  
3 have room for any kind of emergency. And I would like  
4 to discuss that later in this meeting.

5 CHAIRMAN CASTRO: Thank you. Any  
6 questions for Commissioner Kladney? None.

7 Commissioner Kirsanow, you wanted to speak  
8 in favor of Commissioner Yaki's previously withdrawn  
9 paper?

10 COMMISSIONER KIRSANOW: Yes, I would. I  
11 think it is -- well, I will let Commissioner Yaki speak  
12 for himself. I mean I'm not sure why he would want to  
13 withdraw it. I thought it was -- I agree with  
14 Commissioner Heriot. I thought it was a splendid idea.  
15 So, I would be in favor of voting for it as a briefing  
16 topic.

17 CHAIRMAN CASTRO: Okay, I don't know if  
18 Commissioner Yaki wants to add anything to that.

19 COMMISSIONER YAKI: Well you know since  
20 Commissioner Kirsanow and I have disproved the theory  
21 that we are actually the same person by showing up at  
22 the last meeting together, I would say that this is a  
23 topic that I have raised for a number of different years  
24 and every year another incident happens on a college

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1 campus, which just makes me want to do this even more.  
2 But I also realize that we have a very limited number  
3 of topics available. But I think it does bear some  
4 repeating that there are terrible and horrible  
5 instances of racism that are current and are on the rise  
6 on a lot of college campuses throughout the country. It  
7 is not focused on any one particular geography.

8 But when you have students doing slave  
9 auctions on the occasion of Dr. Martin Luther King's  
10 birthday when they are doing an undocumented person hunt  
11 and engaging in extremely racist stereotypical  
12 behavior, and when you consider how racial polarization  
13 has only increased in the past 10 to 20 years in this  
14 country, what used to be a place that people would find  
15 and learn to live and work with people of all  
16 communities, colors, ethnicities, origins, has become  
17 a place where it was sort of supposed to be a safe zone  
18 for these sorts of things to happen. They, instead,  
19 become microcosms of a frat choice in a large society.  
20 It just destroys me to no end. And that is why I  
21 constantly brought that topic up.

22 CHAIRMAN CASTRO: Any questions for  
23 Commissioner Yaki? If none, then I think the only one  
24 left is mine. Is that right? Okay. I want to make

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1           sure I am not missing someone else's.

2                       So, I propose that we look at the condition  
3           that children working in the agricultural industry  
4           face.    In particular, migrant farmworker children.  
5           They are the only class of minors that are, essentially  
6           excepted from protective elements of the Fair Labor  
7           Standards Act, which allows children as young as 12 to  
8           work in agriculture and what some consider very  
9           hazardous situations, if they have parental consent.

10                      Essentially, these children have no  
11           restriction on hours, so they would work unlimited hours  
12           in these fields.   There is no protections in terms of  
13           whether they work during school hours, whether they can  
14           work late at night or early in the morning.   So  
15           essentially, many of these children, and I have included  
16           some photos of actual farm labor children, farm worker  
17           children in the proposal, are being subjected to  
18           conditions that you would read about having taken place  
19           in an earlier century in this country.

20                      Many of these children, there is about half  
21           a million children working in agriculture, the  
22           overwhelming majority of these children are Latino.

23                      And unlike other similarly aged children  
24           who are in the workforce, you have to be at least 16 to

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1 work in non-hazardous work as a child under the Fair  
2 Labor Standards Act, except in agriculture. These  
3 children are being disparately treated. They are not  
4 receiving the same protection of the Fair Labor  
5 Standards Act, these Latino farm worker children, all  
6 farm worker children, as other children in the  
7 workforce.

8 So, I want us to examine what those  
9 conditions are. If there is in fact a disparate impact  
10 on a protected class of children here that are in the  
11 migrant farm worker population, and whether these  
12 children are being denied equal protection of the law  
13 and the administration of justice.

14 I think if you look at the work that we are  
15 doing this year on immigrant children in detention and  
16 the refugee children, this is sort of a natural  
17 outgrowth of that, although many of these children,  
18 while they are immigrants, many of them are United  
19 States citizen children are well. And the conditions  
20 under which they are laboring are hazardous and  
21 draconian. Any questions?

22 Okay, so we could go about this several ways  
23 for the next meeting. In the past, we have ranked  
24 reports, although it turns out that the ranking hardly

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1 ever ends up being the way we vote but that does, at  
2 least, help kind of gauge a consensus. We could have  
3 folks between now and the next meeting designate their  
4 top two or three and then use those as the starting point  
5 for the discussion. I'm sure these will also be  
6 reviewed for jurisdictional -- we actually comport with  
7 our jurisdiction before we actually take final votes,  
8 so we will want to have that done and shared with all  
9 commissioners so that if they need to make some tweaks  
10 to these papers before the vote, that can be done.

11 But is that a preference as to how we  
12 proceed? Commissioner Achtenberg.

13 COMMISSIONER ACHTENBERG: Thank you, Mr.  
14 Chairman. I, for one, would like the papers that are  
15 in and actually under consideration listed and then I  
16 would like to know whether or not -- are we voting for  
17 two or are we voting for three?

18 So, we need to decide how many are being  
19 considered in this round and that will help me make my  
20 own choices. Right now, I mean everybody's topic  
21 sounds terrific and we need to separate the wheat from  
22 the chaff.

23 CHAIRMAN CASTRO: Well, based on the  
24 report we received earlier from OCRE indicating that

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1 based on their evaluation, the current bandwidth would  
2 be three additional reports, including the statutory,  
3 we just selected a Statutory Enforcement Report.

4 COMMISSIONER ACHTENBERG: So, we are  
5 talking about two.

6 CHAIRMAN CASTRO: Yes, I said three total,  
7 including.

8 COMMISSIONER ACHTENBERG: Okay. So, we  
9 have two left to select.

10 CHAIRMAN CASTRO: Yes, so we have got two  
11 left now.

12 COMMISSIONER ACHTENBERG: Okay.

13 CHAIRMAN CASTRO: And then Commissioner  
14 Kladney said he had a master plan for us to be able to  
15 do a fourth.

16 COMMISSIONER KLADNEY: As usual. My  
17 thought is is that John come and make a presentation to  
18 us for next year's budget and where he sees the salary  
19 savings for being able to hire these additional  
20 contractors.

21 I think Commissioner Narasaki was talking  
22 about length of time and estimates as to how long it  
23 would take to update these current reports; one being  
24 the Quite Crisis she indicated she thought would be a

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1 more difficult process than the other three.

2 And if we are budgeting six months for four  
3 people over the next year or so, that sounds like two  
4 full-time people, actually, in hours, with six months,  
5 a thousand hours. Four people, it is 4,000 hours.

6 So, my thought is that if we can get a more  
7 realistic estimate of how long it is going to take to  
8 update these four reports, if Commissioner Narasaki's  
9 description is correct as to each report and time for  
10 each report, I would estimate that there would be extra  
11 hours from this budget of 70 -- \$140,000. I think it  
12 was \$35,000 a head. Is that right, Mr. Director?

13 DIRECTOR MORALES: I don't know that we  
14 came up with a total figure.

15 COMMISSIONER KLADNEY: I think when I  
16 spoke with you yesterday, you had -- well, there was a  
17 figure there that said \$35,000. I don't know what that  
18 was for.

19 DIRECTOR MORALES: Well, that is the  
20 budget flexibility right now. But according to OCRE,  
21 what her proposal has is \$25,000 per contractor for  
22 \$100,000 and that is including this fiscal year and next  
23 fiscal year.

24 COMMISSIONER KLADNEY: So, my thought was

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1 if you are thinking about getting four people a person  
2 4,000 hours, it seems to me you should be able to update  
3 these reports and have extra time and extra bandwidth  
4 with those contractors to be able to help prepare or  
5 prepare additional briefings for next year for us. And  
6 then maybe the year after that, continue to hire a  
7 contractor to help finish up those reports as well.

8 DIRECTOR MORALES: Commissioner Kladney,  
9 that is also assuming that we receive the entire 9.2 that  
10 is in the budget and that there is no other additional  
11 budgetary constraints placed on us. And so we can  
12 create that scenario for you, if that is what you are  
13 asking.

14 COMMISSIONER KLADNEY: Yes, because the  
15 great thing about my proposal is that we could like pick  
16 two reports, in addition to the statutory report, and  
17 then have alternative four and alternative five and be  
18 prepared for what our budget is, when we get it, and  
19 knowing how many contractors we can hire and how many  
20 hours we can use.

21 CHAIRMAN CASTRO: Or alternatively, not  
22 have to pick an alternative and still have the  
23 flexibility, should we have the additional funds, to  
24 either revisit the papers that we didn't support or

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1 address a new topic which may have come up in the  
2 interim.

3 I mean I would love to be able to do more  
4 than three total. I just don't know that we need to make  
5 that decision until we know we have those resources for  
6 sure.

7 Commissioner Narasaki, then Commissioner  
8 Achtenberg.

9 COMMISSIONER NARASKI: Yes, I would like  
10 to respectfully offer to refine Commissioner Kladney's  
11 proposal because one of the things that I have come to  
12 understand is that the Office of General Counsel has  
13 often provided some supplementary help to writing  
14 reports. That has been an historical practice.

15 And one of the reasons why we are  
16 short-handed is because we don't have a General Counsel  
17 or staff. We are also missing a junior staffer in that.  
18 And my understanding is that the Staff Director is  
19 getting ready to post the opening.

20 So, it would be my fervent hope that we  
21 would be able to get the General Counsel onboard and also  
22 fill the position of the more junior staff. And that  
23 would actually supplement the staff that OCR commands.

24 So, it is my expectation that if we get the

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1 right staff that, in fact, we will have sufficient  
2 capacity to do at least four. And I would say I wouldn't  
3 necessarily fill the whole tree in terms of having two  
4 alternatives but maybe at least have one. And that  
5 would give us room should some emergent thing come up  
6 that we would need to take up, as we had to do this year.

7 CHAIRMAN CASTRO: Okay. Any other --  
8 Commissioner Achtenberg.

9 COMMISSIONER ACHTENBERG: No.

10 CHAIRMAN CASTRO: Any other commissioner  
11 have comments?

12 COMMISSIONER KLADNEY: Well, I was just  
13 wondering are we now proceeding, whether the Director  
14 will come back with a more refined kind of program for  
15 next year -- alternatives. I mean that is what was  
16 offered. Is that correct?

17 DIRECTOR MORALES: If that is what you  
18 would like, we can prepare that for you for the next  
19 Commission hearing in terms of, again, keeping in mind  
20 these are targets that are evolving. So I mean being  
21 able to say we have exactly this, there is flexibility  
22 in there. So, I don't want to make a promise that we  
23 have to break or a promise that things have changed in  
24 the budget cycle.

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1                   COMMISSIONER KLADNEY: Just asking for a  
2 presentation, not a promise. And perhaps include  
3 Commissioner Narasaki's suggestion regarding the GC  
4 Office.

5                   DIRECTOR MORALES: Okay. Well, I'll  
6 update that when I get to my portion.

7                   COMMISSIONER NARASKI: And Mr. Chair, I  
8 have actually one additional. Please, the other way or  
9 one supplemental way to help open up capacity would be  
10 for the commissioners to look at the list of reports that  
11 we have said we want to update and choose -- at least  
12 take one off. So, that is the other way to try to make  
13 room for a new report.

14                   Those are what I see the options as being.

15                   CHAIRMAN CASTRO: So, this is what we are  
16 going to do. Between now and the next meeting, I am  
17 going to ask commissioners to rank between one being  
18 their favorite and ten being their least favorite or  
19 whatever number is the last --

20                   COMMISSIONER NARASKI: Mr. Chair?

21                   CHAIRMAN CASTRO: Yes.

22                   COMMISSIONER NARASKI: Could I ask, since  
23 this is kind of new for me, is rather than rank -- because  
24 to me, the two that I look at is going to be what the

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1 mix is. So, can we go with your second alternative,  
2 which was to give the two or three that we would want  
3 to see and then look at what the overlap is.

4 CHAIRMAN CASTRO: Sure, we could do that,  
5 which is what I initially wanted. But given the fact  
6 that folks seem to be wanting to do more, I thought it  
7 would be easier just to rank them all. But if there is  
8 no strong objection, then let's pick our top three.  
9 Would that work, top three?

10 COMMISSIONER KLADNEY: Top three just so  
11 that we can mix it up?

12 CHAIRMAN CASTRO: Yes, just to gauge where  
13 we begin the discussion. This is not a vote on what we  
14 are going to do but just to kind of know where things  
15 are falling out so that when we start talking, or at  
16 least maybe those could be the starting points of the  
17 conversation.

18 COMMISSIONER HERIOT: Can we at least like  
19 eliminate some, so that we don't come to the table --  
20 you know if something doesn't get any top two votes.

21 CHAIRMAN CASTRO: Yes, that is something  
22 we could do. That is why if we say here is the top three,  
23 there are some that are not there, we could begin just  
24 to say, you know that one is not --

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1 COMMISSIONER HERIOT: Yes, if something  
2 doesn't get any votes, it should be off the table.

3 CHAIRMAN CASTRO: We could determine that  
4 at the next meeting just to confirm that.

5 So, does that work for folks?

6 COMMISSIONER KLADNEY: Sure, just don't  
7 forget to vote for my papers.

8 (Laughter.)

9 CHAIRMAN CASTRO: So, top is it three, top  
10 three or top four? Top three, okay. I just wanted to  
11 make sure.

12 So, we will vote on our top three between  
13 now and the next meeting. That will be circulated in  
14 advance of the meeting. What is the deadline we should  
15 get folks, a week before the meeting they should give  
16 us their votes?

17 DIRECTOR MORALES: Yes, the meeting, I  
18 believe, is on August 14th.

19 CHAIRMAN CASTRO: Okay, so August 7th.

20 DIRECTOR MORALES: Yes, the 7th, thank  
21 you.

22 CHAIRMAN CASTRO: And in the interim, we  
23 will also have the Office of General Counsel review the  
24 jurisdictional basis for each paper. And if there is

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1 some tweaks that need to be done, those could be  
2 interfaced -- they can interface with the particular  
3 commissioner on those. Okay? I don't think we need a  
4 motion on that but that is our consensus. So, that is  
5 how we will proceed. Okay? All right.

6 The 14th is our meeting. Yes, so the 7th  
7 we want everyone to turn in their votes by the 7th for  
8 their top three.

9 DISCUSSION AND VOTE ON PART A OF PEACEFUL  
10 COEXISTENCE REPORT

11 CHAIRMAN CASTRO: Okay, next we have a  
12 discussion and vote on Part A of the Peaceful  
13 Coexistence Report. This is, of course, limited to  
14 Part A, since we have not done any summaries or findings  
15 and recs yet. As Commissioner Kirsanow reminded us at  
16 the last meeting, this was one that was not included in  
17 the report from OCRE because it was done by -- are you  
18 in the Office of the Staff Director -- by the attorney  
19 in the Office of the Staff Director. So, I put it on  
20 the agenda for consideration this month.

21 COMMISSIONER HERIOT: So, that means we  
22 don't have the 30-day countdown after this. We have to  
23 wait for Part B?

24 CHAIRMAN CASTRO: Yes, we have got to come

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1 up with a Part B.

2 COMMISSIONER HERIOT: Okay.

3 CHAIRMAN CASTRO: So, but we are approving  
4 Part A right now.

5 COMMISSIONER HERIOT: Okay, so we are just  
6 Part A and then Part B at some other point, and then 30  
7 days.

8 CHAIRMAN CASTRO: Yes, right. Is there a  
9 motion so we could have some discussion? Commissioner  
10 Achtenberg.

11 COMMISSIONER ACHTENBERG: Mr. Chairman, I  
12 want to put forward a motion that we ask that the paper  
13 be sent back one more time to be returned to us by a date  
14 certain and we could arrive on that date certain by  
15 consulting OCRE about how long it would take. But I  
16 would like to see is that three Supreme Court cases that  
17 were decided subsequent to the report being issued be  
18 considered in a reformulation of Part A. And those  
19 cases would be EEOC versus Abercrombie & Fitch, which  
20 was decided on June first of this year; Reed versus Town  
21 of Gilbert, which was decided on June 18th of this year;  
22 and Obergefell versus Hodges, which was decided on June  
23 26th of this year. All three of those cases have  
24 relevant implications for the Peaceful Coexistence

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1 topic and I would like to see additional consideration  
2 be given to those evolving -- the evolving state of the  
3 law with regard to that issue. And those are all things  
4 that happened -- not things -- law that was developed  
5 subsequent to the report being proffered.

6 CHAIRMAN CASTRO: Commissioner  
7 Achtenberg, on your motion, do you mean Office of the  
8 Staff Director, not OCRE? Because Office of the Staff  
9 Director actually did the report.

10 COMMISSIONER ACHTENBERG: Yes. I mean  
11 either give you 60 days, or 30 days, or 90 days, whatever  
12 you thought it would take to effectively consider the  
13 three cases and then have the report returned to us for  
14 our consideration.

15 CHAIRMAN CASTRO: Okay. Yes, I just  
16 wanted to clarify Office of Staff Director as opposed  
17 to OCRE.

18 COMMISSIONER ACHTENBERG: Sure.

19 CHAIRMAN CASTRO: Is there a second on that  
20 motion? Is there a second to that motion?

21 COMMISSIONER ACHTENBERG: Is there a  
22 second?

23 CHAIRMAN CASTRO: I thought that was your  
24 motion.

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1 COMMISSIONER ACHTENBERG: Yes.

2 COMMISSIONER KLADNEY: Second.

3 CHAIRMAN CASTRO: Yes, there is a second.  
4 Any discussion?

5 COMMISSIONER NARASKI: Who seconded it?

6 CHAIRMAN CASTRO: Commissioner Kladney  
7 seconded it. Discussion? Commissioner Kirsanow.

8 COMMISSIONER KIRSANOW: I think including  
9 those cases might be useful. I just would point out  
10 that we have been -- we initially had the briefing on  
11 this more than two years ago. And I think that since  
12 the briefing didn't consider those pending cases, there  
13 should be a full-throated exposition of those cases and  
14 with statement. I would hope we could get it done  
15 within -- I don't want to put any pressure on anybody  
16 but within 30 days so that we can get this report out.

17 CHAIRMAN CASTRO: Any other comments?

18 COMMISSIONER KIRSANOW: I mean I would  
19 think -- Commissioner Narasaki asked what I mean by  
20 full-throated exposition. I don't think it should be  
21 law review kind of analysis. Given that the report that  
22 we have right now and it has been pending for this long,  
23 I don't think that it is something that should be taking  
24 up the bulk of the report but maybe would be a page, maybe

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1 a footnote. And I would urge that it not take that much  
2 time to conclude the report and get it out for us for  
3 consideration.

4 CHAIRMAN CASTRO: Any other comments,  
5 questions, discussion?

6 COMMISSIONER HERIOT: Mr. Chairman?

7 CHAIRMAN CASTRO: Yes, Commissioner  
8 Heriot.

9 COMMISSIONER HERIOT: I would oppose this  
10 on the ground of when are we ever going to get a report  
11 out? You know I realize we haven't quite gotten this  
12 one out. It is just Section A, if we can approve this  
13 today, but we are looking pretty pathetic. We had a  
14 Voting Rights Report ready that we then sent back.

15 You know this means that the only thing that  
16 we are going to get out this year, if we even get it out,  
17 is the Statutory Report and that looks deeply, deeply  
18 pathetic to me.

19 There are always going to be new cases on  
20 religion coming out and no one of them is significant  
21 enough to hold up the report. In this case, I don't  
22 think the three are significant enough. Those are all  
23 important cases but not important to the central issues  
24 that are being discussed in the report.

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1                   CHAIRMAN       CASTRO:           Commissioner  
2           Achtenberg, did you want to say something and then Ms.  
3           Ostrowsky.

4                   COMMISSIONER   ACHTENBERG:       Yes, I do  
5           strongly express my disagreement with the point  
6           Commissioner Heriot just made but I would like to ask  
7           our staff who would be doing this how long she thinks  
8           it would take.

9                   CHAIRMAN   CASTRO:       Lenora Ostrowsky is  
10          taking the microphone.

11                   COMMISSIONER   ACHTENBERG:       Thank you.

12                   MS. OSTROWSKY:   I don't think it would take  
13          very long. Here is a suggestion -- it is just a  
14          suggestion, which is if you approve that part today with  
15          the understanding that the revision, which will not be  
16          very involved but will be certainly an acknowledgment  
17          and explanation of those three cases, that those would  
18          be circulated among commissioners with possibly a  
19          notational vote that would include it in the revised  
20          report. So, that would accomplish both passing, if you  
21          are going to approve the report today, and then  
22          considering the additional pieces by notational vote.

23                   COMMISSIONER   ACHTENBERG:       I don't think  
24          that -- that would short circuit the process in some way

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1 that I am not comfortable with. I would rather see the  
2 treatment of the cases and then feel comfortable about  
3 adopting the report, essentially, as informed by those  
4 three cases, which I do think are significant in terms  
5 of what --

6 MS. OSTROWSKY: I agree that they are  
7 significant.

8 COMMISSIONER ACHTENBERG: -- we may be  
9 able to conclude. I'm hoping for important findings  
10 and recommendations but that is a hope.

11 MS. OSTROWSKY: Thirty days would be more  
12 than adequate. I can get that back to you.

13 CHAIRMAN CASTRO: Any other questions,  
14 comments, discussion? If not, we will call the motion  
15 for a vote.

16 Commissioner Kirsanow, how do you vote?

17 COMMISSIONER KLADNEY: I'll abstain.

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

20 COMMISSIONER HERIOT: I would have been  
21 happy to go with Ms. Ostrowsky's suggestions but I am  
22 going to vote no on this.

23 CHAIRMAN CASTRO: Commissioner Narasaki,  
24 how do you vote?

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1 COMMISSIONER NARASKI: I think 30 days  
2 doesn't seem unreasonable. I will vote yes.

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

5 COMMISSIONER KLADNEY: Yes.

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

8 COMMISSIONER ACHTENBERG: Yes.

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

11 COMMISSIONER YAKI: Aye.

12 CHAIRMAN CASTRO: Madam Vice Chair, how do  
13 you vote?

14 VICE CHAIR TIMMONS-GOODSON: I'm  
15 abstaining, Mr. Chair.

16 CHAIRMAN CASTRO: Okay and I vote yes. We  
17 have one, two, three, four, five yeses, two abstentions,  
18 and a no. So, the motion passes.

19 DISCUSSION ON PROPOSALS FOR FORWARDING THE NY  
20 STATE ADVISORY COMMITTEE REPORT ON JUVENILE  
21 SOLITARY CONFINEMENT

22 CHAIRMAN CASTRO: Okay, next we have a  
23 discussion of a proposal that Commissioner Narasaki  
24 circulated this morning on how we best promote the New

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1 York State Advisory Committee's Report on Juvenile  
2 Solitary Confinement.

3 Commissioner Narasaki, you have the floor.

4 COMMISSIONER NARASKI: Yes, Mr. Chair,  
5 thank you.

6 I don't think this requires a vote. This  
7 is just my reporting on an assignment that we  
8 volunteered to take up, after the briefing that was  
9 given by the New York State Advisory Committee.

10 As you will recall, they made a specific  
11 request that the Commission help them with  
12 dissemination, particularly suggesting a letter to the  
13 Attorney General.

14 And so my Special Assistant, Jason Lagria,  
15 had sent around a memo that we are providing to the Staff  
16 Director for execution. So, it updates some of the  
17 advancements that have been made that begin to address  
18 some of the issues that were raised in that report. And  
19 then we suggest who might get the letters and we have  
20 actually also provided two draft form letters, one for  
21 general dissemination and one that could be tailored to  
22 a select group of specific state and federal actors who  
23 are looking at this issue.

24 So, all that I request is that if

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1 commissioners have ideas about the list, it is a long  
2 list, so we welcome prioritization of the list or  
3 comments in terms of tweaking the letter to give that  
4 to us and to the staff director and, otherwise, we hope  
5 to be able to complete this task in support of the work  
6 that has been done by the New York State Advisory  
7 Committee.

8 CHAIRMAN CASTRO: Okay, any discussion?  
9 Any questions?

10 Okay, I mean the only thing I would ask is  
11 that the letters come under the Chair's signature. I  
12 think that is how we have done some of these in the past  
13 on behalf of the Commission.

14 COMMISSIONER KLADNEY: Don't we want to  
15 attach everybody's signature?

16 CHAIRMAN CASTRO: Yes, I mean if we all  
17 sign it, that is fine, too.

18 COMMISSIONER KLADNEY: I mean that shows  
19 the solidarity of the Commission behind the report.

20 CHAIRMAN CASTRO: Yes.

21 COMMISSIONER ACHTENBERG: If there is  
22 solidarity behind it.

23 COMMISSIONER NARASKI: Yes, what we were  
24 trying to avoid, because some of the letters would

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1 require tailoring because want to acknowledge -- for  
2 example, the fact that the New York Mayor, the City  
3 Mayor, has made some advancements but, obviously, more  
4 work to do. So, we want to tailor the letter to  
5 acknowledge what he has done but note that there is still  
6 work to do.

7 So, we didn't want to burden all the  
8 commissioners with having to decide whether they  
9 supported each particular letter, which is actually why  
10 we had it under the Staff Director's signature,  
11 although, of course, it would be perfectly appropriate  
12 to go under the Commission Chair's signature.

13 So, I am agnostic. It was just a question  
14 of how can we have a smooth process.

15 COMMISSIONER KLADNEY: Well, if you are  
16 going to write that many letters, then that's fine with  
17 me.

18 COMMISSIONER HERIOT: I guess I have a very  
19 strong view on this because I am frequently going to be  
20 on dissent on letters. I think our default rule should  
21 be that letters go out under the Chair's signature. And  
22 that there are going to be some where we want everybody's  
23 signature but we don't want to have like five  
24 commissioners' signatures, unless that is what those

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1 five really want to do. So, I think you know unless we  
2 have decided otherwise, it should be under the Chair's  
3 signature.

4 CHAIRMAN CASTRO: Thank you. Any other  
5 questions, comments?

6 Okay, I don't know that we need to vote on  
7 this but I think there is a consensus that we will  
8 proceed as you have outlined, Commissioner Narasaki.  
9 Okay? Great, thank you.

10 III. MANAGEMENT AND OPERATIONS

11 STAFF DIRECTOR REPORT

12 CHAIRMAN CASTRO: Next we have on the  
13 agenda Management and Operations, finally. So, Mr.  
14 Staff Director, the floor is yours.

15 DIRECTOR MORALES: Thank you, Mr.  
16 Chairman. I don't want to go into, unless anyone has  
17 any particular questions about the Staff Report.

18 What I would like to talk about real briefly  
19 in the time, as we are winding down here is the status  
20 of the vacancy announcement for the Office of General  
21 Counsel.

22 I'm currently in the process of revising  
23 the vacancy announcement. I have had some input from  
24 staff assistant here, one of commissioner's staff

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1 assistants and some other folks as to how to make the  
2 vacancy announcement stronger and more tailored to what  
3 our needs are here at the Commission and the mission of  
4 the Commission.

5 So, I was hoping to get that out today.  
6 Unfortunately, as you have been made aware in the email  
7 I sent to all staff and all headquarters is that our  
8 electricity is going out at 3:00 p.m. today in the  
9 building and it won't come on again until Monday. So,  
10 I am going to take it home and do some homework on it.  
11 I'm hoping to get it out by the close of business on  
12 Monday. I would rather get it right than just get it  
13 out.

14 So, if you will allow me and indulge me for  
15 another day or so, I will get this out. This is my top  
16 priority here. We are hoping to start the interview  
17 process within two weeks. And it may be, again, as I  
18 have mentioned to some of you, it is a little optimistic.  
19 We are hoping to bring a general counsel onboard by  
20 September 1, realistically, a little later, given that  
21 they have to give their notice and so forth.

22 So, that is the status of that. I wanted  
23 to update you on that because I know that is top priority  
24 for a lot of folks and that would help us with a lot of

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1 challenges we have currently in our mission in getting  
2 some of the reports out.

3 And I know certainly I want to do a shout  
4 out for Jennifer. She has done an amazing job under  
5 some really difficult constraints here, and being the  
6 only person in shop in the General Counsel's Office.  
7 And so she has been extremely helpful. I worked with  
8 her and I just want to make sure that she is acknowledged  
9 for stepping up and making this work well. We have been  
10 a little short-handed.

11 So, thank you, Mr. Chair.

12 CHAIRMAN CASTRO: Any questions for the  
13 Staff Director on his oral or his written report that  
14 we received in advance of the meeting?

15 COMMISSIONER YAKI: Mr. Chair, this is  
16 Commissioner Yaki. I would just like to say that the  
17 Staff Director should communicate to Congress we need  
18 our full funding because we can't pay our electric bill.

19 (Laughter.)

20 CHAIRMAN CASTRO: And we need new  
21 microphones, too.

22 COMMISSIONER YAKI: Yes.

23 CHAIRMAN CASTRO: Okay, any questions?

24 IV. STATE ADVISORY COMMITTEE (SAC) APPOINTMENTS

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OREGON

CHAIRMAN CASTRO: If not, then we will move  
on to the last remaining topic, which is the appointment  
of some State Advisory Committees.

We have got two of them up on the agenda.  
The first one is for Oregon. So, I am now going to make  
a motion that the Commission appoint the following  
individuals to the Oregon State Advisory Committee,  
based upon the recommendation of our Staff Director:  
Richard J. Elfering, Thompson M. Faller, Fernando  
Gutierrez, William T. Harbaugh, Marilyn E. Johnston,  
Ping P. Khaw, Kali T. Ladd, Marcella Mendoza, Shoshanah  
Oppenheim, Joyce A. Waggoner, Richard R. Walker.

Pursuant to this motion, the Commission  
appoints Marilyn E. Johnston as Chair of the Oregon  
State Advisory Committee.

These members will serve as uncompensated  
government employees. Under this motion, the  
Commission authorizes the Staff Director to execute the  
appropriate paperwork for the appointments. Is there  
a second?

COMMISSIONER KLADNEY: Second.

CHAIRMAN CASTRO: Okay, any discussion?  
Hearing none, I will call it for a vote.

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1                   COMMISSIONER NARASKI:    Oh, wait.    I'm  
2                   sorry.    I was just asking my staff assistant to get  
3                   information.

4                   I just wanted to commend the Regional  
5                   Director for the work they did in trying to put together  
6                   this slate.    I appreciate the fact that there was an  
7                   inclusion of someone who was at least under the age of  
8                   40 and also that there was reach outside of -- at least  
9                   a broader attempt to get more inclusiveness in terms of  
10                  religion.    So, thank you.

11                  CHAIRMAN CASTRO:    Anybody else?    I will  
12                  call it for a vote.    Commissioner Kirsanow, how do you  
13                  vote?

14                  COMMISSIONER KIRSANOW:    Are voting on all  
15                  --

16                  CHAIRMAN CASTRO:    Just Oregon.

17                  COMMISSIONER KIRSANOW:    Okay, I will vote  
18                  yes.

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

21                  COMMISSIONER HERIOT:    I pass.

22                  CHAIRMAN CASTRO:    Okay.    Commissioner  
23                  Narasaki, how do you vote?

24                  COMMISSIONER NARASKI:    I vote yes.

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

3 COMMISSIONER KLADNEY: Yes.

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

6 COMMISSIONER ACHTENBERG: Yes.

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

9 COMMISSIONER YAKI: Aye.

10 CHAIRMAN CASTRO: Madam Vice Chair, how do  
11 you vote?

12 VICE CHAIR TIMMONS-GOODSON: Yes.

13 CHAIRMAN CASTRO: And I vote yes.

14 Commissioner Heriot, have you decided?

15 COMMISSIONER HERIOT: I'm going to abstain  
16 on this one.

17 CHAIRMAN CASTRO: Okay, we have seven  
18 yeses and one abstention. The State Advisory Committee  
19 passes.

20 SOUTH CAROLINA

21 The next one is South Carolina and I asked  
22 staff to make sure this was up. Given what recently  
23 happened in South Carolina, I think this is a priority  
24 that we get that State Advisory Committee up and

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1 running.

2 My motion is that the Commission appoint  
3 the following individuals to the South Carolina State  
4 Advisory Committee, based upon the recommendation of  
5 our Staff Director: Angelique Vincent, Walter Caudle,  
6 Ryan Wilson, Myriam Torres, Ebonie Nelson, Theodore  
7 Mauro, Miles Coleman, Jonathan Martin, Emma Davidson  
8 Tribbs, Derek Black, Bradley DeVos, Anne Tromsness,  
9 Carlos Johnson, Gail Reardon, and Millicent Brown.

10 Pursuant to this motion, the Commission  
11 appoints William Caudle as Chair of the South Carolina  
12 Advisory Committee.

13 These members will serve as uncompensated  
14 government employees. Under this motion, the  
15 Commission authorizes the state -- I'm sorry -- the  
16 Staff Director to execute the appropriate paperwork for  
17 the appointments. Is there a second?

18 COMMISSIONER YAKI: Second.

19 CHAIRMAN CASTRO: Okay, discussion?

20 COMMISSIONER NARASKI: Yes, Mr. Chair.  
21 Since I have been raising this, I also really want to  
22 appreciate the Regional Director's effort, Jeff Hinton,  
23 for really doing some good outreach. And we actually  
24 have several people under the age of 35, which is one

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1 of the things that I have been raising is trying to make  
2 sure that we are getting the viewpoint of younger  
3 stakeholders in this debate, as well as finding a person  
4 with disability to chair the SAC.

5 So, I just wanted to note that I am paying  
6 attention and really appreciate the additional effort.

7 CHAIRMAN CASTRO: Okay, any additional  
8 comments? Seeing none, I will call it for a vote.

9 Commissioner Kirsanow, how do you vote?

10 COMMISSIONER KIRSANOW: I vote no, based  
11 on lack of ideological balance.

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

14 COMMISSIONER HERIOT: Can I withdraw my  
15 abstention in Oregon and vote no?

16 You know there is a real lack of ideological  
17 balance on both these. You know I recognize the staff  
18 actually has made an effort here. They did put some of  
19 the people on that were recommended to them by the more  
20 conservative commissioners but there is a real lack of  
21 balance here. We have got to try harder. So, I vote  
22 no.

23 CHAIRMAN CASTRO: Okay and I don't know the  
24 answer to your question about changing the abstention

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1 but we will note it in the record.

2 COMMISSIONER HERIOT: Okay.

3 CHAIRMAN CASTRO: And if it is allowed, we  
4 will let it reflect it.

5 COMMISSIONER HERIOT: It is what it is.  
6 It is in the record now.

7 CHAIRMAN CASTRO: Okay. Commissioner  
8 Narasaki, how do you vote?

9 COMMISSIONER NARASKI: Yes.

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

12 COMMISSIONER KLADNEY: Yes.

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

15 COMMISSIONER ACHTENBERG: Yes.

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

18 COMMISSIONER YAKI: Aye.

19 CHAIRMAN CASTRO: Madam Vice Chair, how do  
20 you vote?

21 VICE CHAIR TIMMONS-GOODSON: Yes.

22 CHAIRMAN CASTRO: And I vote yes. That is  
23 six yeses and two nos. The South Carolina package  
24 passes.

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V. ADJOURN MEETING

CHAIRMAN CASTRO: And that is all the business we have for today. So, I am now calling the meeting adjourned as of 12:07 p.m., Eastern Time. Thank you.

(Whereupon, the above-entitled matter went off the record at 12:07 p.m.)