The meeting convened telephonically at 11:00 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman
ABIGAIL THERNSTROM, Vice Chair
TODD GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
ARLAN D. MELENDEZ, Commissioner
ASHLEY L. TAYLOR, JR., Commissioner
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel
CHRISTOPHER BYRNES, Chief, Programs
    Coordination Unit
DEBRA CARR, Associate Director
PAMELA DUNSTON, Chief, ASCD
MAHA JWEIED
DR. ROBERT LERNER, Assistant Staff Director
    for OCRE
TINALOUISE MARTIN, Director, Office of
    Management
EMMA MONROIG, Solicitor
LENORE OSTROWSKY
EILEEN RUDERT
KIMBERLY TOLHURST
AUDREY WRIGHT
COMMISSIONER ASSISTANTS PRESENT:

TIM FAY
DOMINIQUE LUDVIGSON
RICHARD SCHMECHEL
KIMBERLY SCHULD
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PROCEEDINGS

(11:08 a.m.)

CHAIRMAN REYNOLDS: This is Chairman Reynolds. It is 11:08 Eastern standard time on February 11, 2009. We're having a telephonic meeting with Commissioners participating from different locations.

I will call the name of each Commissioner in order to determine if there is a quorum.

Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: I'm here.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Here.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Here.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Here.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Here.

CHAIRMAN REYNOLDS: Commissioner Yaki.

Commissioner Yaki.

(No response.)

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Here.
CHAIRMAN REYNOLDS: Okay. Is the Staff Director on the line?

STAFF DIRECTOR DANNENFELSER: Yes.

CHAIRMAN REYNOLDS: And is the court reporter on the line?

THE REPORTER: Yes.

CHAIRMAN REYNOLDS: Okay. All right. The meeting will come to order.

If a Commissioner wants to make a statement, please identify yourself first. If it is necessary to take a vote, I ask that you provide your name and your vote. After the voting is concluded, I will read out how each of you has voted in order to insure that the tally is correct.

I. Approval of Agenda

I move that we approve the agenda. Is there a second?

VICE CHAIR THERNSTROM: Second.

Thernstrom, second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: Okay. Vice Chair Thernstrom, how do you vote?

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: Commissioner Gaziano.
COMMISSIONER GAZIANO: I am sorry. I didn't see the agenda. I'll abstain.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.
COMMISSIONER KIRSANOW: Yes.
CHAIRMAN REYNOLDS: Commissioner Heriot.
COMMISSIONER HERIOT: Yes.
CHAIRMAN REYNOLDS: Commissioner Melendez.
COMMISSIONER MELENDEZ: Could I ask a question?

CHAIRMAN REYNOLDS: Sure.
COMMISSIONER MELENDEZ: The agenda has Item II, Program Planning, FY 2009 Statutory Report and III, Future Agenda Items. Is that the agenda we're voting on?

COMMISSIONER YAKI: Hello, everyone.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: I am here.

CHAIRMAN REYNOLDS: Very good. So we have the full complement.

Mr. Staff Director, will you please respond to Commissioner Melendez's question?

STAFF DIRECTOR DANNENFELSER: Yes, that's correct.
COMMISSIONER MELENDEZ: Okay. There's just four items I see including the adjournment; is that right?

VICE CHAIR THERNSTROM: That's correct.

COMMISSIONER MELENDEZ: Okay. Thank you.

VICE CHAIR THERNSTROM: We're trying to get out of here fast.

COMMISSIONER MELENDEZ: Okay.

CHAIRMAN REYNOLDS: So, Commissioner Yaki, we are voting on the agenda.

Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: I vote yes.

CHAIRMAN REYNOLDS: Commissioner Yaki? On the agenda I vote yes.

COMMISSIONER YAKI: On the agenda I vote yes.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

II. Program Planning, FY 2009 Statutory Report

CHAIRMAN REYNOLDS: Okay. Commissioner Gaziano voted to abstain. The remaining Commissioner voted in favor of the motion. The motion is approved.

Next, on January 26th, the Staff Director sent the Commissioners an annotated outline of a 2009 statutory report. On February 9th, the Staff Director
also sent a memo from the General Counsel with those changes and modifications to the scope of the statutory report.

There were basically two proposed changes. The first related to Chapter 2. Instead of a recitation of the various statutes relating to discrimination in housing and/or mortgage lending, there was the summary of the most important aspects of these statutes, and with respect to Chapter 3, the report includes a review of the methods employed in establishing credit scores and the effects of federal civil rights and housing law enforcement on such methods. The recommendation is to limit the analysis to existing data or to make that analysis the subject of a separate briefing report.

At this point I open up the floor for discussion.

COMMISSIONER MELENDEZ: This is Commissioner Melendez.

I have read some of the E-mails that come back and forth. One of the questions has to do with whether or not we were doing original research or just repackaging existing stuff. Was that part of the issue?
CHAIRMAN REYNOLDS: At least one Commissioner has expressed that concern.

VICE CHAIR THERNSTROM: Well, this is Vice Chair Thernstrom.

I'm unhappy, Commissioner Melendez, with the word "repackage." All of us who are social scientists take existing data, I mean, in writing our ridiculously long Thernstrom & Thernstrom book and this household. We don't have new data, but we do take data from a variety of sources. You, too, can easily -- you also have easy access to other data, and you know, we take an independent look at them.

In order to do good social science work, one does not have to reinvent the data wheel.

COMMISSIONER MELENDEZ: The other question I had was was the main focus on predatory lending? Was that the major focus of this report or is it kind of other things besides that?

CHAIRMAN REYNOLDS: Well, I believe that we would also take a look at HUD's policies, those policies that encourage lending to increase minority home ownership, as well as any effects, any unintended consequences that flow from the Community Reinvestment Act.
STAFF DIRECTOR DANNENFELSER: This is the Staff Director.

I guess the board point I meant is whether government action may have led to relaxed credit standards in certain aspects of the financial crisis, and in doing that we also began to look at the Community Reinvestment Act, and behind it all there were transmissions being made recognizing among other things --

COMMISSIONER GAZIANO: If I could speak.

STAFF DIRECTOR DANNENFELSER: As far as predatory lending being a major issue was looked at as well.

COMMISSIONER GAZIANO: This is Todd.

As I've communicated in previous meetings and communications, I still have two concerns. The first is that while we were seeking a more refined and detailed kind of research hypothesis, what we received last night is at least kind of in the form of a research hypothesis, but still is rather vague. Whether government action -- and "government action" is not defined yet even at this stage -- obviously if you pick a date in time or some database, it can't study government action that happened after that. So you need to define what the government action is that
you're going to test. Otherwise it could be that we still have no direction. We're going to examine 100 different government actions.

So whether government action may have led to relaxed credit standards, I hope at this point we would have defined that with some more particularity, but without going into that, and then it may have caused certain aspects of the financial crisis. Hopefully I would have expected that we would have defined what those certain aspects are that we were going to try to study since I don't think we should study all aspects of the financial crisis.

But that is an example of where I don't think that we have a refined real research agenda. This isn't a thesis that I would think a good Master's student would have if they were really going to go forward. I have, you know, some confidence that we could eventually get there. I'm just very worried that we should have been there a long time ago.

The second concern was really expressed very well by Richard Schmechel that it's not really -- even if we had this defined research notion, the proposal, the recommendation from staff really hasn't limited anything. I hope we certainly didn't describe every function of every civil rights statute. That was
never my intent. So I'm not sure the first recommendation really limits very much.

The second recommendation that maybe we would abandon the data analysis seems like it comes from nowhere but is a nonstarter, and secondly, it's that we may have to abandon it. But I think we wanted a recommendation so that we, the Commissioners, could actually take some action now to refine the focus so that it's very meaningful, and I don't think we have that right now.

CHAIRMAN REYNOLDS: Okay. Marty, is it our intention to merely describe anti-discrimination statutes or do we intend to just select those anti-discrimination statutes that may have had an impact on the financial crisis?

STAFF DIRECTOR DANNENFELSER: Well, we define the anti-discrimination statutes, but as far as that's legal, I would like the assurance of the General Counsel and have him elaborate on that point.

MR. BLACKWOOD: Yes, this is David Blackwood.

Commissioner Reynolds, what I was seeking clarification of is, for example, last year's report we tended to do a recitation. Here's the statute.
This is what it does, et cetera, and repeated over and over.

I thought that did not make sense given the current report, that it is sufficient to summarize those relevant parts relating to our topic and not do page after page after page with the full outline of what the statute says. That could be limited or the actual terms of the statute could be attached.

COMMISSIONER GAZIANO: Do we not know what those sections are by now? Couldn't we have gotten a list of which sections you intended to say something about?

COMMISSIONER HERIOT: That's what's troubling. I mean, last year I was screaming and jumping up and down over and over again that we spent too much time summarizing statutes, and it seems odd that we have this revelation now that maybe summarizing statutes is not a great idea.

I thought we decided that a year ago, and what we should be down to is which sections are relevant to what we're doing, and that I don't see anywhere here.

MR. BLACKWOOD: Well, there is a detailed outline of the sections. Pages 1 through 4 are the detailed outline.
COMMISSIONER HERIOT: The detailed outline is just what we don't want. The long, long recitation of every statute doesn't say what section is important. It just says, you know, here's a giant statute passes by Congress, and here's another one and here's another one and there's another one.

We should be down to like you know very specific sections, very specific wording, and what impacts they have and not just a giant list of statutes.

MR. BLACKWOOD: If I may, this is David Blackwood again.

The directions that are set forth in the annotated outline is at the direction of the Commissioners in the instructions we got. What I'd like to do is identify those sections which I believe are relevant. So I did not undertake that until I have your all's permission to do so.

COMMISSIONER GAZIANO: But the recommendation was supposed to list how we are going to narrow it, and the recommendation simply says we'll look at some of them and we'll only do some of some of them. That doesn't tell us very much.

COMMISSIONER HERIOT: Looking at relevant statutory material doesn't mean like the entire Fair
Housing Act and the entire Truth in Lending Act. You know, we're looking for some very trendy issues that we can study.

I think there's a lot of misunderstanding going on here. You know, this stuff about how we don't feel we can create a data set, it never occurred to me in our wildest dreams that we could create a data set. Of course we're going to use existing data sets, but we need to know exactly what are we going to study. What's on the X axis? What's on the Y axis?

CHAIRMAN REYNOLDS: Okay. I don't know if anyone is experiencing the same issue that I am. On my end the phone is beeping as Commission Heriot is speaking.

(Off the record discussion.)

CHAIRMAN REYNOLDS: Well, I think at this point it is clear that the goal is not to repeat what we've done in the past in terms of reciting the statutes.

COMMISSIONER GAZIANO: Can I just go back to one other point on this research hypothesis? Even if we get a definition of one of them, it looks like there's lots of potential research hypothesis in the outline. Are we going to eliminate any of them? Is that the proposal? Is that a suggestion?
And maybe if we don't have a suggestion from staff on that we just need to do the hard work of doing it ourselves, but I wish we had -- there are a lot of potential research hypotheses in that outline. I thought we were going to get a recommendation as to, you know, which precise ones we should follow that were going to be meaningful.

CHAIRMAN REYNOLDS: The staff was charged with narrowing the scope of the proposed statutory report and also to provide more definition. Overall I think that they have done what we've asked them to do.

To the extent that there are shortcomings with the documents they've distributed, I think that we should identify the shortcomings and make recommendations on how they can improve on what they've done so far.

STAFF DIRECTOR DANNENFELSER: This is the Staff Director.

I may be looking for more clarification on this point, but going back to the transcript of the January 16th meeting, I examined the two hypotheses that Commission Gaziano laid out, and I believe that we are following those two hypotheses, and I'm not clear, and they are in, number one, whether government action that may have led to relaxed credit standards
caused certain aspects of the financial crisis; and
two, whether there was intentional racial animus in
the lending industry that led to a certain type of
credit that was --

COMMISSIONER GAZIANO: Yes, I thought it
was sort of interesting that I saw some of my language
finally coming back to me last night, but, yes, that
was an example of what I hoped you all would fill in.
That was an example of what I hoped you all who were
looking at that would provide details.

But the idea that, you know, certain
aspects meant that you all or we collectively need to
figure out what those certain aspects are that we're
going to study.

STAFF DIRECTOR DANNENFELSER: We laid out
some ideas in the proposed briefing, that we're going
to examine the Community Reinvestment Act. We're
going to examine the HUD goals that were established
with Fannie Mae and Freddie Mac, and then we were
going to examine predatory lending. We listed the
types of witnesses that we would propose to invite on
both sides and different positions on the various
issues. We could have a balance with respect to them.
We welcome feedback from the Commissioners on that
proposal.
COMMISSIONER HERIOT: That might be back the same as it always has been, and that is we need something very, very, very, very, very, very, very, very, very specific and it is not here.

STAFF DIRECTOR DANNENFELSER: Okay. Then please give it to us.

CHAIRMAN REYNOLDS: Well, the problem is though that Commissioner Heriot's views at least on this point aren't shared by everyone. For example, my approach, I like the approach of narrowing the scope and the fashioning that we're doing now. It's gradual, and it's through discussion, and it's a refinement process.

I mean, you know, do we have specific things in mind? You know, we can criticize staff forever saying that this is not what I asked for, but we need to reach a consensus.

COMMISSIONER GAZIANO: What government actions are we going to study? This is an enforcement report. Which government actions are we going to -- you know, of course, I said I want you to identify which government actions, and what we get back is we're going to study government actions. All of them? Are we going to study all of them, some of them? Which ones?
CHAIRMAN REYNOLDS: Commissioner Gaziano,
I am struggling to understand. I'm looking at a
document that has listed numerous statutes that may
have had an impact on the financial crisis. The Equal
Credit Opportunity Act, the Community Reinvestment Act
are two examples.

COMMISSIONER GAZIANO: There are two
issues going on. We agreed in October it was too
broad and we would have to narrow it, and the proposal
to narrow it is that we would study government
actions. Which ones?

CHAIRMAN REYNOLDS: The ones that are
listed.

COMMISSIONER GAZIANO: All of them?
That's not a narrowing. That's not a narrowing from
October. If we're going to study all of them, then
nothing is narrowed.

STAFF DIRECTOR DANNENFELSER: Okay. Tell
us which ones. Do you not want to study the Community
Reinvestment Act? Do you not want to study the HUD
goals? Do you not want to study what's in the Freddie
Mac bids? Do you not want to study what happened on
Wall Street? Tell us what you don't want to study and
then we will narrow it down to those one or two --
VICE CHAIR THERNSTROM: Now, wait a minute. We will only narrow it down --

COMMISSIONER YAKI: I may not agree with it either. This is Commissioner Yaki I may not agree with that kind of narrowing either.

VICE CHAIR THERNSTROM: Yes, exactly.

COMMISSIONER YAKI: Don't go bargaining away before you know what kind of support you have for the position you have currently got.

VICE CHAIR THERNSTROM: Exactly. Thank you.

COMMISSIONER GAZIANO: Some of us thought that this was a little unmanageable, and we might have accepted, or at least I hope we all would have accepted a lot of different options. What we were promised was this process where based on, you know, some serious study we would get a couple of maybe fruitful options we could go.

To not know where we are going at this point is very problematic, putting aside, you know, what exactly the focus should be.

VICE CHAIR THERNSTROM: I have a question for the Staff Director. This is Abigail Thernstrom.

Marty, do you think it is accurate to say we don't know where we're going?
STAFF DIRECTOR DANNENFELSER: No, I don't. I think we don't have a conclusion yet because we haven't looked into the different essential problems. My suspicion is that we're going to find a variety of factors that contribute, and if that's what we're looking at, there's a great deal of discussion in the public that the Community Reinvestment Act was the starting point for this problem. There are people who believe that the HUD goals might have been too ambitious that were set for Fannie Mae and Freddie Mac. There are others who say that the securitization on Wall Street did this, that maybe that Fannie Mae and Freddie Mac tried to compete with Wall Street, and they got in at the wrong time as the housing bubble was collapsing.

So if we want to look at these types of things, we proposed we invite different witnesses to come, and then we will see where the facts lead us, but we don't have a conclusion at this point. But like I say, my --

COMMISSIONER GAZIANO: If the majority wants to examine all of that, then we're back in October Land, and I disagree. I think it is much more fruitful if we -- by the way, anyone who thinks that any one of those caused it all is probably a fool. I
think it is much more fruitful if we try to figure out what the effect was of a particular one or two government actions, and there in theory are ways we can test what the likely effect is maybe on some mortgage failure rate and then let others conclude whether the mortgage failure rate had anything to do with anything that anyone cared about.

But that to me is more valuable, and I thought that's where we were in October. We're back to saying we're going to do it all, and then we're going to conclude in September? We're going to write it up in September and see if we've done anything valuable?

VICE CHAIR THERNSTROM: I would ask the Staff Director is that a fair description.

STAFF DIRECTOR DANNENFELSER: The Staff Director has a technical point. I have just been handed a note, which is to remind people to identify yourselves for the court reporter.

VICE CHAIR THERNSTROM: That was Abigail Thernstrom asking the Staff Director to say whether that is a fair description.

STAFF DIRECTOR DANNENFELSER: I think I should go through the research. We are going to look at government actions that took place. We are going
to then have time lines to see what kind of time lines in terms of foreclosure rates and so on that occurred synonymous with those time lines or subsequent to those time lines.

In any event, we will likely let people draw their own conclusions at that point and see if there's some kind of pattern, but hopefully the Commissioners will make the final findings and recommendations, but we will try to gather the data and see how the data connects with different events that took place over time.

CHAIRMAN REYNOLDS: Okay. This is Commissioner Reynolds.

I have a question for the General Counsel. Mr. Blackwood, on page 2 of your memo, you talk about a review of the methods employed in establishing credit scores and their effects on federal civil rights and housing law enforcement on such methods. Could you unpack that for me so that I could get a better sense of what you're talking about?

MR. BLACKWOOD: Sure. This is David Blackwood. What I wanted to address was where we started from -- when the Commissioners first discussed credit scoring, which was possibly doing some original research. At the last meeting of June 16 I expressed
some concern about following that original proposal and at that time Dr. Lerner addressed several questions. I believe from Commissioners Heriot and Gaziano with knowing that the adoption to any additional research with that said given that we were going to limit it. I'm still concerned, if we are biting off too much so at that time I met with Dr. Lerner. We reviewed that the scope would be that would work within the time frame of preparing the report.

He assured me, and I agree at this stage, that we can do that if we keep it within the framework of a limited review focusing on the existing data and his analysis of what that data means.

What I did want to alert the Commissioners was, one, yet again what Dr. Lerner said. This is going to be more limited than was originally proposed, and two, that I did have a separate concern not as to the value of this information for the report, but that time frame-wise, I wanted to put you all on alert that in the event that there is a time constraint, this is the one section of the report that I could see removing based on time constraints.

I also mentioned in the memo that because I do believe this is a valuable topic, that if it appears that it cannot appear in this report, the
Commissioners might nonetheless consider bringing it up as a separate topic later in the year or some other time.

CHAIRMAN REYNOLDS: Well, David, what's your concern? I mean, if you have gotten together with Dr. Lerner and you have narrowed the scope, narrowed the review, and I assume based on what you said that you're both comfortable that after narrowing the scope of the review that you can do it within time lines, I'm not sure why we have further discussions about jettisoning this portion.

MR. BLACKWOOD: This is David again.

I just wanted to be fair because in my mind, going back to when this topic was originally discussed, several Commissioners specifically wanted this addressed and wanted it addressed in a broader way, that our recommendation is, one, we cannot do it in a broader way, but, two, if those Commissioners wanted to preserve this as a topic to be viewed in depth, they should understand that that would have to be done separately.

CHAIRMAN REYNOLDS: Okay. So right now where we are you've narrowed the scope. We're not talking about original research. You're --

COMMISSIONER GAZIANO: How is that narrow?
CHAIRMAN REYNOLDS: David, if I understand you right, we're going to narrow the scope; that you're comfortable that we can get this done within our time frames.

MR. BLACKWOOD: That is correct, and when I say -- Commissioner Gaziano was just asking in what way this would be narrowed. As originally discussed when the topic was voted on, it was contemplated that we might do extra data runs or try to cooperate with the Fed. or get the Fed. to turn over what has turned out to be proprietary information and do original data.

That has just not happened, and that is what I was trying to address.

COMMISSIONER HERIOT: It seems to me we sometimes had some confusion between original research and new data sets. Those are two different things. You know, this notion of, you know, we are not going to create our own data set, of course we are not going to create our own data set. By not doing original research, we simply mean a survey of the literature. You know, I think that is not worth doing.

STAFF DIRECTOR DANNENFELSER: This is the Staff Director.
I think we have had some confusion because we have several social scientists among our group and others who are not, and I think there is confusion about the terms at times when we talk about original research and data sets and so on. But let me turn to Dr. Lerner to try to elaborate on that.

DR. LERNER: Yes, this is Robert Lerner. Essentially what we propose to do, as David has talked around, is to review the existing study and to comment on it and use data to comment. Given the time constraints --

COMMISSIONER HERIOT: Like a graph in an article?

VICE CHAIR THERNSTROM: Can I hear the rest of Dr. Lerner's comments, please?

DR. LERNER: All I was going to say was within the time constraints that we have scheduled that we have to meet in order to make our deadlines, the kind of write-up that Mr. Blackwood and I have discussed I think that's feasible, I think it will add something to the report, and I think it can be done.

CHAIRMAN REYNOLDS: Commissioner Heriot, do you have a comment or a question?

COMMISSIONER HERIOT: I'm sorry. Yes, my question was whether or not when we talk about using
data from the literature we're simply talking about, you know, taking a graph that's in a particular article or are we talking about going back to data that went into that article.

DR. LERNER: Yes. First of all, there is not a literature. There is one study, a path breaking, landmark study done by the Federal Reserve on the issue of credit scoring and validity with respect to predicting mortgage outcomes and validity with respect to whether it can predict differently for members of different racial and ethnic groups.

Our standards review the literature. I have also sent this out to independent statisticians who agree with us that this is a sound study and they've done a great job. Therefore, we're going to discuss it in some detail as part of this report.

COMMISSIONER GAZIANO: This is Todd Gaziano.

When we were talking in January, I suppose it is a tiny, tiny, tiny narrowing that you're not going to be doing extra data runs. That seemed at least possible in January.

I also remember you telling me that you may run some different confidence tests on it. Is that no longer being contemplated either?
DR. LERNER: Yes, that is correct. It is our belief that given the time constraints under which we are operating and given the difficulty we have had so far in obtaining either access to the data ourselves or the availability of going to the Fed. to do the runs for us, given the fact that the information that we would get is not sufficient, we cannot justify it.

COMMISSIONER GAZIANO: Well, this one, somewhat -- Gaziano again -- somewhat tiny narrowing is a major disappointment. It's the one area that seemed somewhat interesting, but I also wish since I don't have a special assistant, maybe I can borrow Mr. Schmechle sometimes because he seems to have pointed out how. It's also unclear from the memo are we going to do every other kind of analysis that was set forth in the outline.

MR. BLACKWOOD: This is David Blackwood. I'm not sure I understand what analysis you're referring to.

COMMISSIONER GAZIANO: Well, the actual analysis isn't exactly described in the outline. They have some sort of issues, and there's a whole bunch of other issues kind of identified in the outline which potential analysis could be done. It is just still
unclear to me, except for this one very disappointing piece of news that we're not going to do something that I thought for the past several months was being looked into, that the scope of the review is being narrowed at all.

VICE CHAIR THERNSTROM: This is Vice Chair Thernstrom.

I don't understand this rather disappointing news. This is not new news. This is what we discussed at the last Commission meeting or the one before. I can't remember which.

COMMISSIONER GAZIANO: What I have just under -- you know, there was going to be some different analysis done on the data set that was used in the Fed. study. Our social scientists were going to sort of confirm through new tests. Now I'm told that they're going to just sort of report on it. They're going to report on this study. They're going to highlight it.

That's kind of disappointing to me.

VICE CHAIR THERNSTROM: Is that an accurate description? I'm sorry. Is that an accurate description, Dr. Lerner and David Blackwell?

MR. BLACKWOOD: Well, this is David Blackwell.
All I can say is that this was discussed on January 16th, and at that time I expressed my concern that expanding or keeping it in a broad parameter would prohibit us from including it in the report.

COMMISSIONER GAZIANO: Let's be specific. We were contemplating different runs. We were contemplating different ways of verifying the confidence level. That's not contemplated right now, is it?

MR. BLACKWOOD: No, it is not.

COMMISSIONER GAZIANO: Okay. So essentially you're just going to highlight that study.

MR. BLACKWOOD: That is correct.

COMMISSIONER GAZIANO: Okay.


As far as the study we're talking about, did that study -- was that done recently, and did it basically pertain to the economic meltdown in the lending/housing part of this whole situation that the country is in?

I'm trying to get a handle as to what you're referring to as the study we're going to refer to.
MR. BLACKWOOD: It's a 2007 study done by the Federal Reserve. I don't have the official title right in front of me, but I think it's in the outline.

Does it address the meltdown directly?

No. That wasn't its purpose, but the Commission specifically had wanted us to address to the extent we could credit scoring, and this, as Dr. Lerner says, seems to be a primary, most timely, and most comprehensive study of this kind.

DR. LERNER: May I?

MR. BLACKWOOD: Yes, go ahead.

DR. LERNER: This is Bob, Dr. Lerner.

The official title of the study is the Report to the Congress, Credit Scoring and its Effect on the Availability and Affordability of Credit. It was submitted to the Congress in August 2007 in response to legislative directive that Congress had in 2003 directing the Federal Reserve system to investigate this issue.

So that's the report. The report is available on their Website. Anybody can download it.

CHAIRMAN REYNOLDS: Okay. At this point, unless we have some more --

COMMISSIONER MELENDEZ: I have a question again.
CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: Based on, you know, the question of everybody in the country asking what was responsible for the meltdown and the economy, are we saying that everybody would refer to this report that has all the answers to what everybody is asking as to what was the reason for how everything was implemented that would lead to where we are today?

I guess my question would be are we trying to in some way further go into more original research to answer some questions that may not have been answered in this study that has been done in 2007. I guess that's what I'm trying to get a handle on.

MR. BLACKWOOD: David Blackwood again.

No, this is not an omnibus report that would explain what happened on Wall Street. That's well beyond the level of our enforcement report. I would refer you though to Chapter 4 of the outline, Subparts A and B, which come directly out of the project outline approved by the Commissioners before, that we're really looking at the extent to which any government policies, any questions, specifically the HUD guidelines and the Community Reinvestment Act, rendered to minority individuals and others, similarly situated, vulnerable, financial distress, and a
heightened risk of default, thus undermining the goal of the minority home ownership. That's A.

And B, the examination of any evidence that minority homeowners in particular have been unfairly targeted or otherwise treated in a discriminatory way by any lender or lending policy, and the extent to which the current policies have encouraged such targeting.

CHAIRMAN REYNOLDS: Commissioner Melendez, is that responsive?

COMMISSIONER MELENDEZ: Well, has all of the Commission read that report or is it something that's really long? What is it? How many pages is it? Because I haven't really.

DR. LERNER: Commissioner Melendez, may I answer your question? Yes, the report is very long. Although it was submitted to Congress, I don't think that probably very many people read it. It's well over 100 pages long. It's crammed full of tables. It has some fairly statistical apparatus. I would guess probably most people haven't read it.

My staff and I have read it thoroughly, and as I had mentioned earlier, I have also sent it out to friends and colleagues of mine or statisticians and scientists to get their feedback on it. It's one
of the reasons that I believe it is useful to be included in the report. It’s just a discussion that Mr. Blackwood outlined. It is precisely because no one has read it because it's so technical, it's complicated, it's difficult to read. I said that as someone who is a statistician. So, therefore, I would assume if this was the general public, they would have difficulty.

So I think just bringing the study to light and discussing it in some detail, my personal opinion, if I may be permitted, is it's a contribution to the report or any other research that the Commission would choose to do on the subject.

COMMISSIONER MELENDEZ: How do the Commissioners feel about the report? If you understood it totally, does that kind of help us in determining whether or not that report is something that moves us forward with the support of the way we're going now? Are we saying that we kind of don't know what's in the report, and unless somebody summarizes it for us and we kind of get kind of some grip as to what's actually in it, it doesn't adequately answer what we're trying to find out.
MR. BLACKWOOD: Are you talking about the -- this is David Blackwood -- the present study itself or something else?

COMMISSIONER MELENDEZ: What I'm talking about is you're referring to a report that I don't really know what's in it, whether or not it satisfies where we're going here. I would like to know a summary of what's actually in that report. If we're saying we're just referring to highlighting it in our statutory report, what's in there? I'd like to know whether or not to me what's in there is adequate, as my feeling of what's in there. I just don't know what's in that report, whether it's old material or even relevant to what has happened.

CHAIRMAN REYNOLDS: Dr. Lerner, please send Commissioner Melendez a copy of the report and a summary of what's in it, and if any other Commissioners would like that information, just let Dr. Lerner or Marty know.

STAFF DIRECTOR DANNENFELSER: Okay.

DR. LERNER: Thank you.

VICE CHAIR THERNSTROM: This is Vice Chair Thernstrom.

I just have one additional point to make here. Look. Summaries, I mean, for those of you who
are attorneys certainly know this. I know this as somebody who writes on the law. I mean, all the time I look at Supreme Court and other judicial decisions. I summarize them because it is an important contribution to look at what others have written, in this case judicial opinions, and to say, "Look, folks. Here's what's in them," to tease out the basic responses to questions that are legitimately asked.

And I think that that's what we're doing here.

COMMISSIONER GAZIANO: This is Todd.

I don't think anyone is saying that summaries are never worth anything. They're just not what is our highest value use.

But with regard to this one study, to connect it to our enforcement statutory report, I think some of the government actions that were mentioned by Staff Director actually post date some of the factors that other scholars have said led to the relaxed credit scoring, and by the way, there may be several things that led to this alleged relaxation and reliance on credit scoring.

I think Liebowitz had some arguments about what they are. Does the Commission know at this point? Does staff? Shouldn't Commissioners by this
point know which government actions we're going to try
to connect with that if we're going to rely on this
study?

If we're going to rely on this study, and
it may be a valuable one, oughtn't we to know right
now kind of the range of government actions we're
interested in looking at?

CHAIRMAN REYNOLDS: Well, with respect to
credit scoring, I mean, credit scoring was an attempt
to demonstrate a lack of bias, you know, the folks
pointing out racial disparities and lending, and I
believe the industry responded by trying to come up
with what it believes was an objective, neutral and
nonbiased way of allocating credit.

COMMISSIONER GAZIANO: It did, and then
there was pressure. The argument is there was
pressure from government entities for lenders not to
use credit scores if they had a disparate impact.

CHAIRMAN REYNOLDS: yes.

COMMISSIONER GAZIANO: Okay. What were
those government actions? Ought we not be quite clear
on that by now so that if we're going to have a
briefing, for example, we call the right people, so
that those of our staff who are conducting further
research, interrogatories -- preferably, it seems to
me, that we should have focused on this in September or October. There are some allegations about an earlier Boston Fed. study that was mischievous, resulted in some changes, if I recollect, to lending manuals.

Are we pursuing this? There are some other suggestions. Are we pursuing them all? Because it would matter what period of time we're looking at.

CHAIRMAN REYNOLDS: Well, I think that those are very good points, and I think that all Commissioners after this meeting should compile their suggestions and to further assist the staff in focusing their efforts. I don't know if staff has already considered the issues that you just put on the table, but to the extent that they haven't, I think that they should, and to the extent that other Commissioners have additional recommendations, we should submit them to staff.

VICE CHAIR THERNSTROM: Mr. Chairman, this is Abigail Thernstrom, Vice Chair.

My only concern about that suggestion of yours is that if the staff gets a medley of different suggestions that has not been -- that may be those of one Commissioner only, maybe two Commissioners agree, but in any case, it's a, you know, hodgepodge list of
suggestions. I'm not sure that we are facilitating
the work of the staff.

COMMISSIONER GAZIANO: I would much rather
the Commission members as a whole identify what
factors we think may be relevant. I endorse the --

VICE CHAIR THERNSTROM: Or why don't we --

COMMISSIONER GAZIANO: -- I endorse the
Vice Chair's basic point, but the problem is we have
not done it yet, and the problem is that what we focus
on and what the staff is focusing on might vary
depending on the answer to that question.

VICE CHAIR THERNSTROM: But it's certainly
possible for Commissioners to circulate ideas, is it
not, Mr. Chairman, amongst themselves and see if we
can't arrive at a few manageable suggestions that the
staff would feel, again, are doable?

CHAIRMAN REYNOLDS: The suggestion made by
you and Todd, I believe it's a good suggestion. In
order for it to work, we all need to set aside the
time to either make recommendations, but definitely to
review the recommendations that are submitted by other
Commissioners.

COMMISSIONER GAZIANO: Should we seek
recommendations from the staff that has been studying
this? That's what I was hoping for.
CHAIRMAN REYNOLDS: Okay. I thought that we were --

COMMISSIONER GAZIANO: Maybe we've got to give up on that at this point.

CHAIRMAN REYNOLDS: Well, the proposal as I understood it was that we were going to digest what has been discussed today, identify areas where we could refine the approach that staff has set forth in the outline, and what we would do, we would circulate recommendations amongst ourselves. That is how I understood at least Vice Chair Thernstrom's recommendations.

And at one point I thought that you were in agreement, but apparently I was wrong.

Vice Chair Thernstrom, did I characterize your recommendations?

VICE CHAIR THERNSTROM: You have it right.

CHAIRMAN REYNOLDS: Anyone else want to weigh in on a recommendation?

(No response.)

CHAIRMAN REYNOLDS: Okay. Well, then let's, in this particular case, let's interpret the silence to mean that that's what we're going to do.

COMMISSIONER GAZIANO: Or exhaustion.
COMMISSIONER HERIOT: Let me just say one thing, why I think it's difficult, why we're having problems here. It's very difficult to produce a hypothesis unless we know what the data set is like. That's, I think, why we are -- it's very difficult to have the Commission come up with a refined hypothesis since we don't know what it is we're testing it against.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER MELENDEZ: Could I ask another question?

CHAIRMAN REYNOLDS: Yes.

VICE CHAIR THERNSTROM: Wait a minute. Could I have a response to that from -- I don't know -- David Blackwood, Dr. Lerner, Staff Director? I don't care.

MR. BLACKWOOD: Well, this is David Blackwood.

All I can say is that from the beginning, and I'm referring specifically to our October 30, 2008 project outline which was adopted by the Commissioners, to point out the issues that we are going to review, including specific government actions, such as -- I'll say actions and/or policies -- the Community Reinvestment Act and the HUD
Guidelines and whether that had an adverse or beneficial effect on minority home ownership.

And our outline, the detailed outline that was just submitted, those same headings, those same sections are, again, restated, and they are restated, for example, as the Staff Director mentioned, in the comments by Mr. Gaziano in the transcript of January 16th. Those are the two main prongs of government actions that we are looking at.

The third prong of the report is what was previously discussed about predatory lending. Did any particular lending practices specifically with regard to, say, subprime and Alt. A loans, was that specifically targeted towards minorities or low income borrowers?

On all three of these topics we believed it is existing information because we have seen it from a variety of federal agencies showing how -- I won't say directly how these policies have affected, but the information exists when we tie it together and synthesize it to show one way or another how home ownership was affected and whether it had a disproportionate effect on minorities.

That is how we intended to proceed.
VICE CHAIR THERNSTROM: Now, I mean, I'm trying to say it, but I am very satisfied with what the staff is doing at this point, and I would have a preference for letting them go ahead further and putting on hold more Commission interference at this point.

COMMISSIONER GAZIANO: Interference? We haven't narrowed it one iota, except that we're not going to do some of the stuff that seemed rather promising.

We adopted the October paper with the caveat that we were going to narrow it, and when things like CRA were mentioned, that we weren't assuming that those were going to be the exclusive causes of anything.

And so if the majority -- we seemed to have a majority that we were going to narrow the topic, and we seemed to have a majority we were going to narrow it long before now. If the majority is changing its mind right now, that's a serious problem, and if we don't move faster to do it, I'm not sure it's not too late now anyway.

But if we don't move very fast in doing so, it's going to be a better problem.
CHAIRMAN REYNOLDS: At this point I'm not sure how much value there is in continuing. My recommendation is that, Commissioners, to the extent you have suggestions with respect to the outline and the manner in which the General Counsel has attempted to narrow the scope of the statutory report, let's put it -- let's get these recommendations. Let's distribute them. Let's have conversations, and then let's provide back guidance. Let's provide some guidance to staff to the extent we have a consensus.

COMMISSIONER GAZIANO: Well, at a minimum I suppose we're not overruling our prior commitment to discuss this at every single one of our meetings, and it seems to me we need to make sure to reserve sufficient time at each of our meetings if we're going to continue down this road.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: We're not punting to the staff at this point, in other words.

CHAIRMAN REYNOLDS: Okay. So --

COMMISSIONER GAZIANO: With our additional submissions.

CHAIRMAN REYNOLDS: Well, just to make sure that I understand, well, I don't recall that we committed to having monthly discussions of the issue.
COMMISSIONER GAZIANO: We did.

CHAIRMAN REYNOLDS: Okay. I'll defer to your memory. I think it's a good idea. So unless someone else has an objection or wants to revisit what we apparently agreed to in the past, I think that, Marty, you should at the point of your Staff Director's report include an update of where we are in terms of the statutory report.

COMMISSIONER GAZIANO: But is this -- again, I don't know how we can get this train, if it exists, back on the tracks, but is it really -- I don't know that we really need to take the vote. Are we really going to narrow this report or are we not?

CHAIRMAN REYNOLDS: Well, I'm not sure that we're going to vote on anything today. The purpose was to have a discussion and provide additional guidance to staff. At least that's my understanding of the purpose of this teleconference. And there is a difference of opinion over whether what staff has done is sufficient.

I think that Abby has already indicated her views on that point. Pete, Ashley, Michael, Arlan, please share your views.

COMMISSIONER KIRSANOW: Mr. Chairman, this is Kirsanow.
VICE CHAIR THERNSTROM: And, Gerry, I also have a question relevant to this discussion. Could I just interject for now with that?

COMMISSIONER KIRSANOW: Go ahead.

VICE CHAIR THERNSTROM: Look. As I think about it, I'm not sure how this process is going to work and what the time frame is, and the RAIs do say that Staff Director has the ultimate, you know, discretion or authority to judge this stuff. I think in our discussions from this point on, we ought to keep that in mind.

But anyway, go on.

COMMISSIONER KIRSANOW: Well, this is builds on your question.

COMMISSIONER HERIOT: -- any discussion over anything.

CHAIRMAN REYNOLDS: One at a time. Pete was up next. I believe, Pete, do you want to defer to Gail.

COMMISSIONER KIRSANOW: I'll defer to Gail for a moment.

VICE CHAIR THERNSTROM: I think Pete was about to build on what I was just going to say. So I would really like Pete to -- I'd like to hear him.
CHAIRMEN REYNOLDS: Well, we will, but he's willing to defer to Gail. Gail, do you want to respond?

(No response.)

COMMISSIONER GAZIANO: Her phone seems to be going in and out.

COMMISSIONER KIRSANOW: Okay. Let me step in then. Yes, I was building on what Abby just said, and one has to do with timeliness. Having reviewed the outline, it looks like an ambitious undertaking, and I think Todd is raising some very reasonable points.

I do think -- well, I do have one question primarily, and I think it has been answered by General Counsel, but I'd like to move it to the Staff Director/General Counsel and to Dr. Lerner.

Given the current frame of the outline, if no other changes were made, and I mean that to say that no significant changes were made to it, is this something, given the time frame that we have in order to issue a statutory order, that you have assessed as doable, you know, getting out the statutory report in a timely fashion?

MR. BLACKWOOD: This is David Blackwood.
I take it and agree with your assessment that it is ambitious. I also believe that it is totally doable. We took on an ambitious project in 2007 on the deseg. project. We got it done.

My background is as trial lawyer. I'm very cognizant of deadlines. We will meet the deadline. If however -- and keep in mind that I originally proposed monthly kind of updates from those working on the report -- if we believe or we find out that, for example, as interrogatory answers come in, that we are not able to address a particular section or a particular issue, I will send up a flare immediately.

But at this stage, based on the public information we have already reviewed, yes, I believe we can accomplish the goal and on a timely basis.

COMMISSIONER KIRSANOW: And I guess that -- now, I don't want to put words in anybody's mouth -- but Staff Director and Dr. Lerner concur?

STAFF DIRECTOR DANNEFELSER: Well, Dr. Lerner would like to speak and then I'll comment.

DR. LERNER: Yes. Given the way the report is structured now, the one word answer is, yes, I believe we can do it.
COMMISSIONER KIRSANOW: And let me just say I'm not holding you to this. I've been to this rodeo before.

COMMISSIONER GAZIANO: I am.

COMMISSIONER KIRSANOW: I know the difficulties inherent to it. I mean, I understand based on what the General Counsel said that at some point, you know, he may say, "Whoa, we're getting in kind of deep here. We may have to reassess."

But I'm taking this also to be a response that this is something that is, while ambitious, it's manageable.

COMMISSIONER GAZIANO: I'm sure you can cover all of these topics very thinly. We committed in October we were going to focus. I thought a majority of us would rather focus it. So let's just be clear. You can always do something. What's the result?

CHAIRMAN REYNOLDS: Well, I think at this point it's premature. We don't have sufficient evidence to conclude that we're going to get a product that is thin. I would hold David and Marty responsible for getting this done on time, along with Dr. Lerner, and to the extent that they discover problems that require us to reconsider an approach, I
would expect them to let us know as soon as they have concluded that this discussion is needed.

I do not expect the staff to produce a shoddy document. I'm expecting a document that is going to add to the discussion. Right now the financial crisis is topic number one. The housing component of it, arguably, triggered this meltdown, and I expect that whatever we produce will be useful, will be useful and will increase understanding of how we got to the situation that we are in today.

STAFF DIRECTOR DANNENFELSER: This is the Staff Director.

One of the next steps that we have here in this process is the briefing that we propose for March 20th, and that was the second memo that was included that was sent to the Commissioners, and I guess at this point I'd just like to see if we are clear to move forward on that and would welcome any specific recommendations.

We laid out a number of different names, proposed potential people to invite to be witnesses and in other cases representatives of HUD, representatives of Fannie Mae, Freddie Mac, and so on. If we have some feedback from the Commissioners on that as to how we might produce specific people or
perhaps eliminate some of those on the list or add
some other names or organizations that are not on the
list, we would welcome that information, but would
also like the Commissioners' approval to move forward
and to start inviting people because we are only about
six weeks away from that point which we have to have
this hearing.

COMMISSIONER GAZIANO: A brief point of
order. Is Commissioner Heriot still on the line?

COMMISSIONER HERIOT: Yes, I'm here.

COMMISSIONER GAZIANO: Okay. We lost you
for a minute.

COMMISSIONER HERIOT: Yes, sorry.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: I'm a little, as I
said in an E-mail, a little uncomfortable confirming
witnesses when we still haven't known the topic and we
still don't know what government action we are looking
at or which government actions and what government
effects and what aspects of the financial crisis we
care most about.

If it's the majority's view, we didn't
quite finish the round robin, that we should just
examine it all, then maybe I'd have a different set of
witness lists or witnesses I'd prefer for the witness list.

VICE CHAIR THERNSTROM: I somehow think you can come up with witnesses that answer your questions. You know, let's not try to slow this up and stop the staff from moving forward.

COMMISSIONER GAZIANO: I have certainly not tried to slow it up. I'm just concerned that since we have slowed it up and we haven't answered a question about focus, it gives me concern whether we're going to have a good briefing in March and whether we ought to postpone the briefing in March because we haven't done our job, and I mean we as Commissioners.

VICE CHAIR THERNSTROM: Well, I really think you can come up with --

MR. BLACKWOOD: If you do postpone things along the way, then we are not going to meet the deadlines that the General Counsel talked about. I think that the proposal for this briefing is very specific. In Panel 1 we propose to look into the Community Reinvestment Act, what affect that might have had. Panel 2, HUD lending goals and is that something Mae and Freddie Mac. Panel 3, predatory lending and the mortgage crisis.
They are three very specific areas that we propose to look into, and that has been debated and mentioned that it's possible culprits, if you will, in this crisis.

CHAIRMAN REYNOLDS: This is Commissioner Reynolds.

I recommend that to the extent you're not satisfied with the list of organizations and individuals who are on the list, that you submit additional names.

VICE CHAIR THERNSTROM: That's fine. We can figure out what questions are most important to us. You can submit a list.

COMMISSIONER KIRSANOW: This is Kirsanow.

With response to I think it was the Staff Director's request that the meeting be limited to four contacted witnesses, I have no problem with doing so, and I guess the focus of the briefing is narrowed, and I would suggest parenthetically if we're going to narrow it, we had better do it damned quickly.

Then we can modify the witness list. You know, if we've already made contact with someone and confirmed them, my preference is we not then strike them from the list, but I think that an approach can be made in an intelligent fashion to witnesses as this
approach being to the witness list that will be confirmed shortly.

We do have how many more weeks, five weeks of it or six weeks until the briefing? I think that we can walk and chew gum at the same time.

CHAIRMAN REYNOLDS: Okay, folks. I think at this point this is a good point to wrap it up.

COMMISSIONER HERIOT: Do we need a motion to have the brief --

COMMISSIONER MELENDEZ: Could I ask a question? What's the briefing titled for the March meeting?

CHAIRMAN REYNOLDS: Marty, do we have a title?

MR. BLACKWOOD: This is David Blackwood.

Since it relates to the statutory report itself, your raw title would be an examination of civil rights issues with respect to the mortgage crisis, and then the three panels of the staff director Marty mentioned.

COMMISSIONER MELENDEZ: Can I ask? The other question was if you held a briefing prior to doing the staff report, would that have helped us in any matter as to what direction to go if it were reversed?
MR. BLACKWOOD: This is David Blackwood again.

The timing is still such that the testimony that should be presented at the briefing would be useful in the report. A lot of the information, we know where people are coming from, and that's how they were able to identify, but it would be, we believe, valuable anecdotally to pick up information from your questions to them, that they might get them away from their prior--

COMMISSIONER GAZIANO: Wouldn't it be more valuable to have the interrogatory responses circulated and some other updates so that we know which witnesses and how to question the witness? Is there really a problem with having this in April? What would the problem be in April? Let me put it that way.

MR. BLACKWOOD: The problem would be that we would blow through AI 116.

COMMISSIONER GAZIANO: We can always suspend an AI. So the problem is what is the problem if we do so.

MR. BLACKWOOD: Well, if you suspend all deadlines, including --
COMMISSIONER GAZIANO: No, not all deadlines. What's the problem with having this hearing in April? I'm sure there are some, but I want to weigh those against the advantages of having interrogatory answers.

MR. BLACKWOOD: This is David Blackwood again.

Well, hopefully we should have the answers to interrogatories by that time. I don't control them, but the responses and the feedback is that we should have them presumably before or only unfortunately shortly before the briefing if it goes ahead in March.

COMMISSIONER GAZIANO: Okay. What's the problem in having it in April though? Because I think we might actually -- I'm imagining things focus what we are most interested in before then, but what's the problem having it in April?

MR. BLACKWOOD: Well, if you're willing to suspend the rules, I suppose nothing, but right now we're supposed to have a draft, first draft, on March 16th to the Staff Director and to the Commissioners on April 27th, and we would need to do that. I have taken it as job number one based on my understanding is that the report needs to be timely.
So everything has a cost.

COMMISSIONER HERIOT: I would say having the briefing sooner rather than later. So you know, I would prefer March just because March is a month before April. As you know, I'm not optimistic about this whole process, but you know --

COMMISSIONER GAZIANO: No, I see costs both ways. I just wanted to hear from staff. I mean, I can imagine that it would be a little bit helpful if you're going to be able to incorporate some information from the briefing in the draft.

On the other hand, I'm not sure the briefing will be as valuable. So I'm just trying to -- but I -- given where we are right now, I see neither option is great.

CHAIRMAN REYNOLDS: At this point --

STAFF DIRECTOR DANNENFELSER: Doing it in March would help us in two ways. One, the drafting of the statutory report. It would also give Commissioners an opportunity to interact directly with these witnesses, and we've seen from the past sometimes these question and answer session allow the Commissioners to probe and to come up with some additional lines of inquiry that are helpful in preparing reports.
Chairman Reynolds: Okay. At this point, Marty, do you have a sufficient amount of direction with respect to the oral report and also this briefing that we have teed up for March?

Commissioner Heriot: Don't we have to vote on whether or not to hold any briefing?

Staff Director Dannenfelser: Excuse me, Commissioner Heriot. I didn't hear your questions.

Commissioner Heriot: Don't we have to vote on having any briefing? Don't we need a motion here?

Chairman Reynolds: Okay. I move that we have the briefing that we just discussed in March. Is there a second?


Vice Chair Thernstrom: Wait a minute. I'm sorry. I thought there was already a vote on that in a past Commission meeting.

Commissioner Gaziano: I'm not sure of that, but it can't hurt to have a motion to either do it or confirm it.

Chairman Reynolds: Okay. Let's just have the vote. Is there a second?

Commissioner Kirsanow: Kirsanow. Second.

Chairman Reynolds: Discussion?
(No response.)

CHAIRMAN REYNOLDS: Okay. Vice Chair Thernstrom, how do you vote?

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: No.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes, with reservations.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: I'll abstain. I could go either way, I guess.

CHAIRMAN REYNOLDS: Commissioner Yaki.

Commissioner Yaki.

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: Commissioner Taylor.

Commissioner Taylor.

(No response.)

CHAIRMAN REYNOLDS: Okay, and I also vote in favor of the motion.

Let the record reflect that Commissioner Gaziano voted against the motion. Commissioner Melendez abstained, and Commission Taylor did not
vote. The remaining Commissioners voted in favor of the motion. The motion passes.

CHAIRMAN REYNOLDS: Okay, folks. At this point let's call it a day.

VICE CHAIR THERNSTROM: Thank you.


(Whereupon, at 12:21 p.m., the Commission meeting was concluded.)