U.S. COMMISSION ON CIVIL RIGHTS

MEETING

FRIDAY, MAY 15, 2009

The Commission convened in Room 540 at 624 Ninth Street, N.W., Washington, D.C., at 9:00 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman

ABIGAIL THERNSTROM, Vice Chair

TODD F. GAZIANO, Commissioner

GAIL L. HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner (via telephone)

ARLAN D. MELENDEZ, Commissioner (via telephone)

ASHLEY L. TAYLOR, JR., Commissioner (via telephone)

MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director
STAFF PRESENT:

DANIEL ADELEYE
DAVID BLACKWOOD, General Counsel, OGC
TERESA BROOKS
CHRISTOPHER BYRNES
DEBRA CARR (via telephone)
DEMITRIA DEAS
PAMELA A. DUNSTON, Chief, ASCD
LATRICE FOSHEE
ROBERT LERNER, Asst. Staff Director for OCRE
SOCK-FOON MacDOUGALL
TINALOUISE MARTIN, Director, OM
EMMA MONROIG, Solicitor
LENORE OSTROWSKY
KIMBERLY TOLHURST
AUDREY WRIGHT
MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:

TIM FAY
DOMINIQUE LUDVIGSON
KIMBERLY SCHULD
RICHARD SCHEMCHEL
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>TABLE OF CONTENTS</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Approval of Agenda</td>
<td>4</td>
</tr>
<tr>
<td>II. Approval of Minutes of April 17, 2009 Meeting</td>
<td>13</td>
</tr>
<tr>
<td>III. Announcements</td>
<td>13</td>
</tr>
<tr>
<td>IV. Staff Director's Report</td>
<td>15</td>
</tr>
<tr>
<td>V. Program Planning</td>
<td></td>
</tr>
<tr>
<td>A. Update on Status of 2009 Statutory Report</td>
<td>34</td>
</tr>
<tr>
<td>B. Update on Briefing Report Backlog</td>
<td>43</td>
</tr>
<tr>
<td>C. Approval of Briefing Report on Covert Wiretapping in War on Terror</td>
<td>58</td>
</tr>
<tr>
<td>D. Discussion of Senate Bill re Hate Crimes</td>
<td>122</td>
</tr>
<tr>
<td>E. Preliminary Discussion of 2010 Statutory Report Topic</td>
<td>120</td>
</tr>
<tr>
<td>V. Management and Operations</td>
<td></td>
</tr>
<tr>
<td>A. Motion Regarding Evaluation of Staff Director Performance</td>
<td>120</td>
</tr>
<tr>
<td>B. Motion Regarding Staff Director's Provision of Quarterly Financial Reports to Commission</td>
<td>120</td>
</tr>
<tr>
<td>C. Motion Regarding Commission Preparation of Public Service Announcement</td>
<td>120</td>
</tr>
<tr>
<td>D. Motion Regarding Review and Standardization of Agency Regulations, Administration Instructions and Other Practices</td>
<td>120</td>
</tr>
<tr>
<td>VI. State Advisory Committee Issues, Connecticut SAC</td>
<td>132</td>
</tr>
<tr>
<td>VII. Adjourn</td>
<td>136</td>
</tr>
</tbody>
</table>
(9:40 a.m.)

CHAIRMAN REYNOLDS: Okay. We can get started now. The meeting will come to order.

This is a meeting of the U.S. Commission on Civil Rights. It is 9:40 Eastern standard time on May 15th, 2009. The meeting is being held at 624 Ninth Street, N.W., Room 540, Washington, D.C.

All Commissioners are present, except for Commissioners Kirsanow, Taylor, and Melendez.

The first item on the agenda is the approval of the agenda.

I. APPROVAL OF AGENDA

CHAIRMAN REYNOLDS: Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

Commissioner Heriot.

COMMISSIONER HERIOT: I move to amend, to amend the agenda to include an item to discuss possible action with regard to the hate crimes bill that is now pending in the U.S. Senate, and I move that it be stuck at the end of program planning.

CHAIRMAN REYNOLDS: Okay. Conversation?

COMMISSIONER HERIOT: There needs to be a second on that.
COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: Okay. All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

COMMISSIONER YAKI: I object.

CHAIRMAN REYNOLDS: Any --

COMMISSIONER YAKI: I find the description of the item rather vague and ambiguous.

CHAIRMAN REYNOLDS: Okay. Would you like to ask for clarification?

COMMISSIONER YAKI: I just stated what my grounds were for --

COMMISSIONER HERIOT: I think it's already broad --

COMMISSIONER GAZIANO: -- to explain they can.

COMMISSIONER HERIOT: We can get to it when we get to it because we already voted now.

CHAIRMAN REYNOLDS: Okay. Folks on the phone, how do you vote?

COMMISSIONER KIRSANOW: Kirsanow, yes.

COMMISSIONER MELENDEZ: Melendez, yes.

CHAIRMAN REYNOLDS: Okay. The motion passes. Let the record reflect that --
COMMISSIONER YAKI: Point of order. I did not hear Commissioner Melendez's vote and I do not know if you recorded my vote as a no.

CHAIRMAN REYNOLDS: Okay. Commissioner Melendez, I heard you vote in favor of the motion.

COMMISSIONER MELENDEZ: I'll abstain. I'm not sure what the issue was.

COMMISSIONER YAKI: Commissioner Taylor, I think, has joined us on the line.

COMMISSIONER GAZIANO: Yes. Commissioner Taylor voted aye.

COMMISSIONER YAKI: Okay.

COMMISSIONER GAZIANO: Correct, Commissioner Taylor?

COMMISSIONER TAYLOR: That's correct.

(Laughter.)

CHAIRMAN REYNOLDS: Okay, okay. Just to be clear, Commissioner Melendez, did you abstain or vote against the motion?

COMMISSIONER MELENDEZ: Well, I'm not sure what the add-on was. So I abstain.

CHAIRMAN REYNOLDS: Okay. All right. Let the record reflect that Commissioner Melendez abstained; Commissioner Yaki voted against the motion; the remaining Commissioners voted in favor. The
motion passes.

Commissioner Heriot, where would you like the placement to be?

COMMISSIONER HERIOT: At the end of Section -- well, actually there are two Section Vs, aren't there. At the end of the Program Planning section. We have a numerical problem here. We have two Section Vs. At the end of the first Section V.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: Mr. Chairman, I also have a couple of motions to amend -- oh, sorry, folks. I also have a couple of motions to amend the agenda. The first one, I move to amend the agenda to include a preliminary discussion of next year's statutory report topic, and this would also go under Program Planning.

I mean, we know from our experience with this year's housing topic, with last year's religious freedoms in prison topic, the longer we delay selection of a topic, the more difficult it will be to meet our deadlines.

CHAIRMAN REYNOLDS: Okay. I second the motion.

Continue.

VICE CHAIR THERNSTROM: It's not too
early. Perhaps we can avoid the same late start, and so I'd like to amend the agenda to have a preliminary discussion.

CHAIRMAN REYNOLDS: Any other discussion?
(No response.)
CHAIRMAN REYNOLDS: All in favor say aye.
(Chorus of ayes.)
CHAIRMAN REYNOLDS: Okay.
COMMISSIONER HERIOT: Oppose?
COMMISSIONER GAZIANO: Any opposed?
CHAIRMAN REYNOLDS: Well, before we go on, Commission Taylor, how do you vote?
COMMISSIONER TAYLOR: Aye.
CHAIRMAN REYNOLDS: Kirsanow.
COMMISSIONER KIRSANOW: Yes.
CHAIRMAN REYNOLDS: Commissioner Melendez?
COMMISSIONER MELENDEZ: Yes.
CHAIRMAN REYNOLDS: Okay. Objections?
(No response.)
CHAIRMAN REYNOLDS: Abstentions?
(No response.)
CHAIRMAN REYNOLDS: Commissioner Yaki, did you vote in favor of the motion?
COMMISSIONER YAKI: Did we call for a vote?
VICE CHAIR THERNSTROM: Yeah, we did.

COMMISSIONER YAKI: Oh. Then yes.

CHAIRMAN REYNOLDS: The motion passes unanimously, and so that issue will be taken up after Gail's addition.

VICE CHAIR THERNSTROM: Right. And I've got another on.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: And this regards our projected civil rights conference, both our strategic plan as well as our budget long included program item for this year regarding the hosting of a conference on the topic of civil rights in the 21st Century, and I want to move to amend the agenda to include a discussion of this conference, again, under Program Planning.

I mean, the question, it seems to me, on the table is whether this conference is really necessary. I mean, this discussion started out in I believe 2006. I could be wrong, but you know, what would it accomplish? Whom do we really expect to pay attention to it?

And I actually do have an alternative proposal, which is to collect and publish a compendium of essays, but --
CHAIRMAN REYNOLDS: Okay. I second it.
I'm sorry. Continue.

VICE CHAIR THERNSTROM: Well, I have an alternative proposal which is to collect and publish a compendium essays from across the political spectrum, different points of view on the topic of civil rights in the 21st Century, and that would be something that would have some lasting value, some shelf life, some lasting value, something people could hold in their hands or read at their leisure, and I think would have a greater impact than a conference with a questionable number of people attending and a questionable outcome in terms of what we do with the material.

CHAIRMAN REYNOLDS: Well --

VICE CHAIR THERNSTROM: It has just gotten to be very late as this has gotten kicked down there.

COMMISSIONER HERIOT: This is a motion to amend the agenda. So we don't need to --

VICE CHAIR THERNSTROM: Yeah.

CHAIRMAN REYNOLDS: Okay. Any other comments?

VICE CHAIR THERNSTROM: There is motion on the floor, yeah.

COMMISSIONER GAZIANO: Is there a second?

VICE CHAIR THERNSTROM: Yeah, there is a
second.

CHAIRMAN REYNOLDS: No, there is a second.

COMMISSIONER GAZIANO: He said he was
going to ask for the ayes and nays.

CHAIRMAN REYNOLDS: Well, I just wanted to
make sure that no one else has a comment. If that's
the case, all in favor.

(No response.)

CHAIRMAN REYNOLDS: Kirsanow.

VICE CHAIR THERNSTROM: You're just voting
for a discussion. That's all.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Yes.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: It's okay.

CHAIRMAN REYNOLDS: Okay. The motion
passes unanimously. Any other amendments?

(No response.)

CHAIRMAN REYNOLDS: Okay. Next up is the
approval of the minutes for the meeting that was held
on April 17th, 2009.

COMMISSIONER GAZIANO: Or should we adopt
COMMISSIONER HERIOT: We have to adopt the agenda.

COMMISSIONER GAZIANO: -- agenda as amended?

CHAIRMAN REYNOLDS: Oh, I'm sorry. I move that we adopt the agenda as amended. Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: yes.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: This is strange, but I feel I have to ask. Commissioner Yaki.

COMMISSIONER YAKI: Fine.

CHAIRMAN REYNOLDS: Is this a new tactic?

COMMISSIONER YAKI: What?
CHAIRMAN REYNOLDS: That.
Okay. The motion passes unanimously.
Next up is the approval of the minutes of
the April 17th, 2009 meeting.
II: APPROVAL OF MINUTES OF APRIL 17, 2009 MEETING
CHAIRMAN REYNOLDS: I move that we approve
those minutes. Is there a second? Will you please?
COMMISSIONER GAZIANO: Second.
CHAIRMAN REYNOLDS: Discussion.
(No response.)
CHAIRMAN REYNOLDS: Okay. All those in
favor, please say aye.
(Chorus of ayes.)
CHAIRMAN REYNOLDS: Any objections?
(No response.)
CHAIRMAN REYNOLDS: Any abstentions?
COMMISSIONER HERIOT: I abstain.
CHAIRMAN REYNOLDS: Okay. Let the record
reflect that Commissioner Heriot abstained. There
remaining Commissioners, I believe, voted in the
affirmative. The motion passes.
Okay. Announcements.
III. ANNOUNCEMENTS
CHAIRMAN REYNOLDS: This week marks the
55th anniversary of the Supreme Court decision in
Brown v. Board of Education. On May 17th, 1954, the Supreme Court unanimously struck down state laws establishing separate public schools for black and white students. With its decision, the Court effectively rendered school policies that required segregation illegal in 21 states.

In the aftermath of Brown it would also sanction an extraordinary level of federal intervention, including judicial supervision, to insure compliance with its decision in response to a wave of massive resistance adopted by many school boards and state governments to maintain school desegregation.

Also, on May 2nd of this year, Jack Kemp, former Vice Presidential candidate, congressional leader, and Secretary of Housing and Urban Development passed away at the age of 73. Mr. Kemp had a long and distinguished career serving in Congress for nine terms and serving as HUD Secretary from 1989 to 1993 in the George H.W. Bush administration. Throughout his private and public life Jack Kemp was a strong advocate of equal opportunity for all people. He worked passionately to provide housing opportunities for low income people and was a strong proponent of voting rights.
In 2008, he co-chaired the bipartisan National Commission on Fair Housing and Equal Opportunity. The Commission held hearings throughout the country to examine the effect of federal enforcement of fair housing laws and the subprime mortgage crisis had had on residential segregation. A report was released in December of 2008.

Jack Kemp was an optimist who believed that no dream was impossible to attain. His work was a testament to that optimism and sets a great example for others to follow.

At this point we will hear from the Staff Director.

VICE CHAIR THERNSTROM: I've got lots of dreams that are impossible to attain.

Go on. I'm sorry.

IV. STAFF DIRECTOR'S REPORT

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman.

During this past reporting period OCRE received 92 written complaints, two congressional complaints, one walk-in complaint, 16 E-mail complaints, six facsimile complaints, and 172 telephone complaints of which 103 were repeat calls. In total staff received and processed 289 complaints.
during the reporting period.

The Office of Management has prepared the transparency report for the month of April, and that was forwarded on to OMB.

The staff has met with the General Services Administration and with the YWCA about improvements to our space that might be made, and we understand that the YWCA acknowledges that they have a contractual commitment to do painting and new carpeting throughout our space. So we are going to try to schedule that with them. We're also looking at some other improvements that would perhaps replace our beautiful banner back here with something a little bit more up scale.

And we also have --

COMMISSIONER GAZIANO: Could I just interrupt you in that?

STAFF DIRECTOR DANNENFELSER: Yes.

COMMISSIONER GAZIANO: Since we sometimes do get C-SPAN and other TV to cover us, the new standard is something that is TV friendly so that however it's framed on the -- whenever it's framed on the Chairman, I don't know how expensive that is, but would you consider that kind of impact when you're going to change the banner?
CHAIRMAN REYNOLDS: Well, could you describe what you had in mind?

STAFF DIRECTOR DANNENFELSER: Well, we're looking at some wall mount possibilities that would have the actual, you know, wording of the Commission in a -- what would you call that? -- wall mount form.

CHAIRMAN REYNOLDS: What's the material? A wall mount, is it wood? Is it metal?

STAFF DIRECTOR DANNENFELSER: There are various options that we're looking at right now. One option is all metal and there's another option that would be a combination of metal and acrylic, and those are among the options we're looking at right now.

CHAIRMAN REYNOLDS: Do you have photographs?

STAFF DIRECTOR DANNENFELSER: We do have some photographs, not with me right now, but I do have some up in my office.

CHAIRMAN REYNOLDS: Could we upload them and distribute them via E-mail? Would that be possible?

STAFF DIRECTOR DANNENFELSER: I think we can do that and get that around to the Commissioners.

CHAIRMAN REYNOLDS: I want to make sure that Todd is happy with the --
COMMISSIONER GAZIANO: Just a thought.

CHAIRMAN REYNOLDS: Oh, no, it's a good one.

VICE CHAIR THERNSTROM: You're perfectly right. We do have C-SPAN here sometimes.

CHAIRMAN REYNOLDS: Well, even if we didn't, we can do better.

(Laughter.)

STAFF DIRECTOR DANNENFELSER: Okay. We're also getting key card installations for our stairwells, and that will enable people to move around within our three floors without necessarily having to use the elevators, and at times we do have trouble with the operational situation with the elevators. So people would not be stranded if that situation were to develop.

Regarding the Website, the Website statistics were submitted separately following the last meeting for February and March, and the April statistics on the Website are not yet available, but I will be sending those to Commissioners when they are received as I did with the previous ones for February and March.

The library staff received 83 telephone
inquiries. They completed 45 simple reference requests and performed 28 research projects of various sizes. An additional 53 research requests were completed utilizing automated search services.

Regarding publications, there were 166 written requests and 153 E-mail requests for publications that were received. Four hundred and 70 publications were mailed, and 48 different publications were requested. There were no congressional requests received for publications, but we hope they were accessing our Website.

"Getting Uncle Sam to Enforce your Civil Rights," a compilation of civil rights laws, and the catalogue of publications were our most requested publications, and currently there are 49 requests for publications in process.

Staff has reviewed and revised the position description for the Budget and Finance Chief, and that will be going out in all likelihood next week. We anticipate getting that posted.

There was also a posting for the Office of General Counsel secretary position and a selection has been made on that particular position.

All of the reports that were due to OPM and other sources were submitted in a timely fashion,
and there is ongoing instruction and training for the E-2 travel system. The most recent training session was conducted on May 7th of this month and several of our staff members attended that session.

And that's my report, Mr. Chairman.

CHAIRMAN REYNOLDS: Okay. All right. Questions?

COMMISSIONER MELENDEZ: Melendez here.

Where was the Deputy Staff Director's position?

IV. DEPUTY STAFF DIRECTOR POSITION

STAFF DIRECTOR DANNENFELSER: Yeah, we announced that some time ago and went through a process. We found out during the process that there were at least two people who believe that they were screened out, inappropriately screened out of eligibility, and upon further review, it was determined that they were, in fact, screened out inappropriately.

There were several other reports of technical problems with people who were trying to access the system. So at this point it's my intention to cancel that particular selection process and then to allow Commissioners to have further discussion about moving forward on that at some point in the
future.

COMMISSIONER MELENDEZ: Okay. Could I ask another question? How does this comply with the agency's human capital plan? I think one of the meetings you mentioned we had a human capital plan in 2005, and I'm not sure what that plan actually means in relation to hiring new staff and whether this position is in there.

STAFF DIRECTOR DANNENFELSER: Well, we are currently looking at the possibility of doing some outside contracting relating to the human capital plan to see if we can bring in a consultant to help to develop that human capital plan. That is something that we intend to accomplish by the end of this calendar year.

COMMISSIONER MELENDEZ: One more question. I heard that some of the agency employees were approached about some sort of buy-out, early retirement. Is that happening within the agency?

STAFF DIRECTOR DANNENFELSER: There were a few discussions that were held along those lines, yes.

COMMISSIONER MELENDEZ: And where have you looked at it? Are some people actually taking early retirement?

CHAIRMAN REYNOLDS: I would ask is that an
appropriate --

MR. BLACKWOOD: No, we'd have to go into closed session. You can talk generally about it, but not about individuals.

CHAIRMAN REYNOLDS: Okay. So let's just keep the conversation general.

COMMISSIONER MELENDEZ: Okay.

STAFF DIRECTOR DANNENFELSER: These were preliminary discussions. If we were going to move forward on that process, we would have to approach the Office of Personnel Management with a plan for moving forward. So these were preliminary discussions to gauge potential interest on the part of several employees.

COMMISSIONER YAKI: What was the purpose of it?

STAFF DIRECTOR DANNENFELSER: To -- in looking at the positions we might want to fill down the road and other use of resources, to see if there were some possibilities for consolidation and making resources available for some other positions and other activities of the Commission.

COMMISSIONER YAKI: I don't understand. So at some point you made a decision that we needed a substantial restructuring of the staffing of the
Commission and to do that you would engage in a potential buy-out situation, and this is the first that I have heard of this.

CHAIRMAN REYNOLDS: Well, Commissioner Yaki, you have characterized what was said in a way that I suspect that the Staff Director would not agree. What he stated was that there were preliminary inquiries to gauge the level of interest.

COMMISSIONER YAKI: When I asked him why he did that, he then went on to explain a series of substantive reasons for doing so that I am unaware --

CHAIRMAN REYNOLDS: They were normal reasons. When federal agencies consider buy-outs, generally one of the reasons is to reallocate resources. Over time the needs and the skill sets of an organization may change, and this is one vehicle for realigning an organization's skill set. This is not anything that is unusual. No decisions were made in regard to this issue. It was seeking information to gauge the level of interest because if there's insufficient interest, I mean, the plan can't go forward unless there is a sufficient number of individuals you would entertain the idea of an early buyout.

COMMISSIONER YAKI: With all due respect,
Mr. Chair, you just stated a fact not in evidence, and that is a plan going forward. So, therefore, --

CHAIRMAN REYNOLDS: A plan going forward?

COMMISSIONER YAKI: You said you had to gauge interest before the plan goes forward.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER YAKI: My point --

CHAIRMAN REYNOLDS: If you were going to have a buyout --

COMMISSIONER YAKI: My question goes to there must be a reason why this gauge of interest occurred. That is why I asked the Staff Director why that was. He then proceeded to talk about using the words "elimination" and "consolidation of positions" and as much as it may be a natural occurrence in an agency of 900, 1,000 to 10,000 employees, I have less confidence about any realignment, consolidation, elimination and what have you in an agency of our current size and current vacancies for the past five years, four years I have been on the Commission.

And I would think that something of this magnitude is not something that, you know, is just junior position I, tech II, you know, in DOD. These are people who we see in our audience every month at our meetings and in our offices as we walk around. It
is not as if there are lots and lots of positions that
you can play around with.

So my concern is that, you know, I want to
know and I want it stated for the record, you know,
what is the Staff Director thinking about in terms of
elimination or consolidation of positions that led to
this gauging of interest for potential buyout.

STAFF DIRECTOR DANNENFELSER: Mr. Chairman.

CHAIRMAN REYNOLDS: Well, let me respond quickly.

COMMISSIONER YAKI: May I ask the Staff Director? I assume this is what he's doing. If
you're doing it, Mr. Chair, then I will listen to you
explain your rationale for doing it.

CHAIRMAN REYNOLDS: Okay. Since I am
involved in everything, I will provide you with my
rationale.

COMMISSIONER YAKI: Okay. That's all I
wanted to get out on the table.

CHAIRMAN REYNOLDS: This exercise is not
new. This exercise has taken place within this agency
in the past. The size of the agency is not
determinative. We have critical needs in various
agencies, including budget and procurement. We have
worked hard to obtain clean audits over the last few years, but we still have significant deficiencies in terms of manpower and skill sets in certain areas of the Commission, and the Staff Director, in consultation with the Chairman, we have been looking at ways to shore up some of these areas.

And I have done this with the current Staff Director. I have done this with the previous Staff Director. These inquiries have taken place before under my tenure, and they've taken place before under my predecessor.

COMMISSIONER GAZIANO: Mr. Chairman.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER GAZIANO: For the record, I was not aware that these inquiries were being made, but given that we didn't even request formally $2 million that we thought last September was important for our agency, I commend the efforts of the Staff Director and others to see whether there are any options so that we can be more effective and complete our mission and be able to hire one or two staffers.

Given the budget projection at least for the next year, this seems very prudent to me.

STAFF DIRECTOR DANNENFELSER: Yes, Commissioner Gaziano makes a good point. Our request
to OMB was actually, I guess, about $3 million more than what was called the pass-back from OMB. So there were a number of different positions that we proposed to fill at that time, and of course, we have moved forward on filling the Commissioner special assistants and the budget chief and a few others.

So I think we should have to get some gauge on what are the possibilities in order to come to the Commission with a plan. Before we would go to OPM, we certainly would have to come to the Commission and the Commission would have to approve a plan that would be submitted to OPM.

CHAIRMAN REYNOLDS: Additional questions?

COMMISSIONER MELENDEZ: Yes. Commissioner Melendez.

I know that we have a goal to assess an issue and report a value relating to the effectiveness of the agency's organizational and administrative structures. With that goal in mind, is what we're doing as far as looking in to these possibilities of any buyouts and those things conducive to -- have we taken that into consideration or do we try to evaluate the effectiveness of the organization and then make the changes after we've done that?

CHAIRMAN REYNOLDS: Well, Commissioner
Melendez, we were taking a look to see if this particular option was a viable option. As I said earlier, if there was an insufficient number of people who were interested, then it's an option that we would have to remove from the table.

So we have not reached a point where we could describe with any precision how this, you know, developing option would fit in the context of our human capital plan.

COMMISSIONER MELENDEZ: My only comment is we need to be kept up as far as Commissioners because we have a concern, at least I do as far as, you know, the effectiveness. We have enough work to do, and we don't have the manpower to do it in many instances because we're short staffed. So if we eliminate positions, we need to be kept up to date whether or not it's just not rehire that position or whether or not it's going to be consolidation to have one person do more duties, that type of thing.

So I'm just saying we need to be kept up to date, and that goes into one of my action items later in the agenda.

CHAIRMAN REYNOLDS: Well, to the extent that significant decisions are about to be made or significant decisions will be brought before the
Commissioners, but we're not there yet.

COMMISSIONER MELENDEZ: Could I ask a
question to the Staff Director as far as if he thinks
the Commission will fail in any of its 2009
performance goals at this point.

STAFF DIRECTOR DANNENFELSER: I think we
have to do further review to make a clear
determination on that point. We're striving to attain
them, but I think it's still an open question.

CHAIRMAN REYNOLDS: Next question.

COMMISSIONER YAKI: Next question, just to
follow up on this and I'd like the General Counsel to
explain what would be the best way in which this would
be accomplished, but I would like to know to whom the
approaches were made, and if it has to be done in
whatever confidence, but I would like at least for my
own purposes to understand what areas, and I'm not
going to prejudge, but I would like to look at the,
quote, unquote, raw data for myself.

CHAIRMAN REYNOLDS: Now, this is an
unusual request. What's your concern?

COMMISSIONER YAKI: Oh, I think you could
pretty much figure out my concern, Mr. Chair.

CHAIRMAN REYNOLDS: If I could, I still
would ask the question.
COMMISSIONER YAKI: I think my concern that would better be left to closed session rather than in open session.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: So that's why I was simply asking for the raw data.

CHAIRMAN REYNOLDS: Okay, and whether it's a request that's reasonable, I guess, will turn in part on --

COMMISSIONER YAKI: For everyone else, this is something that requires the Commission. I am personally requesting --

CHAIRMAN REYNOLDS: No, I --

COMMISSIONER YAKI: -- that I be allowed to review the names of the individuals to whom buyout approaches were made.

CHAIRMAN REYNOLDS: I understand that, and whether the request will be granted depends in part on where this is doing.

COMMISSIONER YAKI: Well, I didn't know that you had total control over whether or not I could ask the Staff Director about actions that were done in the name of the agency.

CHAIRMAN REYNOLDS: You can ask the Staff Director --
COMMISSIONER YAKI: If you're telling me that, indeed, you have the ability --

CHAIRMAN REYNOLDS: You can ask the Staff Director--

COMMISSIONER YAKI: -- to shut down a single Commissioner from asking for information that is within the domain --

CHAIRMAN REYNOLDS: You can ask the Staff Director anything --

COMMISSIONER YAKI: -- of each Commissioners.

CHAIRMAN REYNOLDS: -- you would like. Is there anything else you would like to ask?

STAFF DIRECTOR DANNENFELSER: Let me make a clarification just on this point. There were no formal offers made to anybody. They were just -- there was a survey, if you will, of several people in the agency as they were --

COMMISSIONER YAKI: I'd like to know --

STAFF DIRECTOR DANNENFELSER: -- preliminary discussions.

COMMISSIONER YAKI: -- at whom the survey was aimed.

CHAIRMAN REYNOLDS: Well, my concern --

COMMISSIONER GAZIANO: This is pure
speculation, but I would speculate it's people who are close to retirement, and beyond that I don't know that we need to know.

CHAIRMAN REYNOLDS: Well, my --

COMMISSIONER YAKI: You may choose not to know, but I would like to know.

COMMISSIONER GAZIANO: I want to know, but I say just don't understand why we need to know.

CHAIRMAN REYNOLDS: My concern is that --

COMMISSIONER YAKI: Well, you may not need to know, but I do.

CHAIRMAN REYNOLDS: Commissioner Yaki, your request is unusual. It's getting into a level of detail that we don't ordinarily do, and we do it in part to ensure that the functioning of the agency is not disrupted.

Now, if you think that there was something -- if you believe that the Staff Director has engaged in activities that are inappropriate, that resonates with me, but if it's for some other reason, I would like to know what those reasons are.

So we can do it in a closed session, do it off line. The choice is yours.

COMMISSIONER YAKI: I'm making my request. I'll stand by it. If you wish to discuss it with me
off line, that's fine.

CHAIRMAN REYNOLDS: Okay. All right.

COMMISSIONER MELENDEZ: Question.

Commissioner Melendez here.

At the April meeting the Staff Director said that the staff was updating the Commission's budget to include the three special assistants and upgrade to the conference room and other matters. Have we received a revised budget which incorporates those changes so we can see practically where we are with some of the modifications to the budget at this time?

I believe I asked that at the April meeting.

CHAIRMAN REYNOLDS: Bear with us, Commissioner Melendez.

STAFF DIRECTOR DANNENFELSER: I'm sorry. I would like to have the question repeated.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER MELENDEZ: I was asking at the April meeting I believe you said or the Staff Director said that he was updating the Commission's budget to include to hire the three special assistants and upgrade the conference rooms and some other matters, and you're going to get us a revised budget
as to what those costs were, and we haven't received that yet.

STAFF DIRECTOR DANNENFELSER: Okay. I will get that put together and send that out to Commissioners.

COMMISSIONER MELENDEZ: Okay. Thank you.

CHAIRMAN REYNOLDS: Additional questions, comments?

(No response.)

CHAIRMAN REYNOLDS: Next step, Mr. Staff Director. Could you walk us through the status? Where are we with the 2009 statutory report?

V. PROGRAM PLANNING

UPDATE ON STATUS OF 2009 STATUTORY REPORT

STAFF DIRECTOR DANNENFELSER: Well, at this point I'd like to turn to the General Counsel and ask him to provide an update on that score.

MR. BLACKWOOD: Well, first I'd like to apologize since virtually every estimate I've given has been inaccurate. Just yesterday or actually as of today we have received all of the editorial feedback from the Editorial Review Board in leader sufficiency. There have been some very helpful comments.

Some of them have suggested that a restructuring of the report, not that the substance of
it is, for example, wrong or whatever, but that
different parts of the report appear in different
sequences. That was something initially I was hopeful
that I would address editorial review very quickly and
turn it around over the weekend.

I'm not going to be able to do that. I
talked with the Staff Director and others in our staff
about perhaps rearranging the report along the lines
that I just mentioned, changing the sequence of
certain things, moving certain parts of the text to
the appendix and maybe certain parts of the existing
appendix into the text, emphasizing different issues,
and it was very useful in hearing this from a variety
of different individuals pointing out in some regards
a similar issue. You know, why didn't we address this
issue in the body of the text, for example.

So the good new is I think 99 percent of
the report exists. It's actually in writing. I do
think it's going to take more than just the weekend
though to change the report in a way that the
editorial review writers have indicated to me that
they thought would add to the clarity and context of
the issues that we have addressed.

As I said before, I have a horrible track
record. I recognize that. I would say approximately
one week. I will hopefully get it done faster, but I
would suggest it's not going to be able to turn around
by Monday.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yeah, I'd like to
just ask a little bit more about that process and then
perhaps a little bit more on the substance of what we
should expect. I appreciate all of the hard work I'm
sure you and the other staff are putting in, but since
we have the deadlines to meet, I would have liked --
we all, I'm sure, would have liked -- to have been
able to review it so that we could then follow up at
this meeting on some of the substantive questions.

Just partly because I'm curious, who was on the Editorial Review Board or what type of people
were on it?

MR. BLACKWOOD: Well, there were three
individuals on the Editorial Review Board as well as
the Staff Director made his own substantial comments.

Lenore Ostrowsky, Chris Burns, and Peter
Minarik --

COMMISSIONER GAZIANO: Yeah, partly
whether it's external, how many does --

MR. BLACKWOOD: No, the external review
does not happen until --
COMMISSIONER GAZIANO: Okay, and that's not substantive?

MR. BLACKWOOD: No. The external review doesn't do substantive review. It's to make sure that the other checks have occurred.

COMMISSIONER GAZIANO: I understood that was normally the case. I just thought maybe for this report there was some external review.

MR. BLACKWOOD: No. I will say that we are also well aware that other deadlines will have to be affected by this, and in reporting to you when we send out the report, indicate suggested changes of the deadline as far as making sure that the Commissioners have substantially the same amount of time to make their comments.

COMMISSIONER GAZIANO: Okay. Well, I don't think this is particularly sensitive, I should say. I mean, there are some times we don't share actual drafts with the public until we've already approved them, and I know this is a public meeting, but I'd like to have a little bit of a substantive discussion because at some of the prior monthly updates we heard, well, we might be able to do this, which some of us were very interested in. We don't know.
So I don't know whether it's appropriate. If you're able to answer this question or Dr. Lerner is able as well, can you tell us what the major substantive findings are in the draft report?

MR. BLACKWOOD: Findings, no, but I can tell you about what the topics --

COMMISSIONER GAZIANO: I'm sorry. Your major conclusions, whatever, however you want to put it because there were some things that we said we were going to get updates on, and then we were told, well, let's just wait until we get the draft.

MR. BLACKWOOD: Okay. Well, let me walk you through the report itself.

COMMISSIONER GAZIANO: Sure.

MR. BLACKWOOD: And it follows in general terms the outline that was approved by the Commissioners. There's a discussion of the statutes. There's a discussion of the major policies that were involved. There is then a discussion of enforcement efforts.

Now, keep in mind part of the issue that I've heard feedback from is maybe the sequence of things change. Then there is a discussion of the development of these, backgrounds as far as what was the motive of some, what was the idea behind some of
these statutes and how they evolved because they are not static.

Next would be a review of views of individuals about what led up to the mortgage crisis and what roles these policies played, and that is a survey that covers a variety of different perspectives.

Next is a very large chapter, going over data that has been prepared by members of OCRE, going into some depth to, as I say, we're not drawing conclusions, but it looks at the variety of information regarding types of loans, subprime loans, Alt A loans, rates of foreclosure, very extensive. In fact, one of the issues is is it too extensive. If so, how should we narrow it? And maybe some of that belongs in an appendix. Some of it is very slicing the bologna, if you will, very thin. So maybe we focus more on the bigger issues, but all of them involving issues about home ownership, types of loans, what happens to those types of loans, things that influence those types of loans, for example, the HUD lending goals, the CRA.

There are two large appendices at this time. One is the credit scoring issue, which is very well addressed in my mind. There have been a lot of
studies that have come out recently, and those have been incorporated, although we still have more work, for example, a recent study that just came out a month or so ago that we're trying to incorporate. It's a bit of a moving target.

That, for example, is an appendix because my belief is that it was better addressed as an appendix as opposed to in the text.

And finally, there's an appendix addressing some of the issues addressing the intellectual background of these. It's more of a survey of some of the background of what led to these particular policies.

COMMISSIONER GAZIANO: We were discussing just drilling down on the hypotheses that the report attempts to try to shed light on, and one was that predatory lending based on race, that there would be some sort of test of that. Is that one of the things that the report is -- or does the report -- I remember. There was some discussion that is a pejorative term and, you know, possible to test.

MR. BLACKWOOD: Well, I think it's fair to say that the issue of predatory lending is addressed, but by itself, as someone well involved in fair housing issues, predatory lending is a misnomer.
There's no agreement on what constitutes predatory lending.

COMMISSIONER GAZIANO: Were you able to define it in some way, is what I'm trying to say, and then try to test to see.

MR. BLACKWOOD: Well, I'll put it this way. It's addressed in a variety of ways. One, we point out that the variety of different opinions about what constitutes predatory lending. Then we break it down as far as at least core issues: mortgage discrimination, about fraud, and look at the enforcement efforts and whether they have grown or not grown or how they have done.

This ties in also with the credit scoring topic about how -- because with some of the allegations of predatory lending by certain groups is based on, in essence, credit scoring itself is discriminatory. And we reviewed those issues and that's discussed at length.

COMMISSIONER GAZIANO: Okay. Well, maybe my final question is if we were writing a pre-press release on what new the Commission's report was going to address, what hypothesis or issue is this report going to cover that will be worthy?

MR. BLACKWOOD: Worthy. Well, I'll let
you decide what is worthy, but let's put it this way. The core is what was approved on as far as the outline, approved by the Commission, which boiled down to its main theme. Did the federal policies relating to try to increase home ownership, including specifically the Community Reinvestment Act, as well as the HUD lending goal, did they have the effect that was desired and in what way?

And it is possible through a lot of this data that we are looking at, what specific role did they play to the extent we can determine in the home ownership increase and then its subsequent bursting of the bubble.

COMMISSIONER GAZIANO: I had personally expressed less interest in the CRA than the credit scoring aspect of that, but I suppose I'll wait for the draft, which I'm sure with the extra work that's been put in is going to be in very fine shape. There are other -- I'll yield to other Commissioners if they have questions.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: No.

CHAIRMAN REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Have to wait for the draft.
CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: We'll have plenty of questions when the draft comes in, I'm sure.

CHAIRMAN REYNOLDS: Okay. Next up.

COMMISSIONER MELENDEZ: Commissioner Melendez.

When will the draft come in?

MR. BLACKWOOD: Well, as I say, with all of my disclaimers, my view is that we should have it out by next week, by next Friday.

COMMISSIONER MELENDEZ: Thank you.

CHAIRMAN REYNOLDS: Okay. Next up, a report on status of the briefing report backlog.

V. PROGRAM PLANNING

UPDATE ON BRIEFING REPORT BACKLOG

CHAIRMAN REYNOLDS: The report on status of the briefing report backlog was sent to Commissioners on April 9th. An updated report was included in the binders that were sent to Commissioners on May 7th.

At the April 17th Commission meeting, Commissioners decided to postpone discussion of the pending briefing reports until today's meeting so that Vice Chair Thernstrom could be present and so that there could be discussion by Commissioners regarding
how staff should prioritize the backlog reports going forward.

Mr. Staff Director, please provide us with an update on the status of the pending briefing reports.

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman.

At the meeting in April, the No Child Left Behind Act and supplemental education services briefing report was approved, and Commissioners agreed that comments would be due on June 1st for that report, and that the Staff Director would then promptly distribute the Commissioners' comments upon which there would then become another 30-day response period from the point of the Staff Director distributing the Commissioners' initial comments.

The Department of Justice voting rights enforcement for the 2008 U.S. presidential election briefing report. The findings and recommendations for that report were adopted at the April 17th meeting. Part A had previously been adopted, and Commissioner comments were also determined to be due on June 1st, 2009 for that report with the same process of the Staff Director distributing the comments to all the Commissioners for a 30-day response period.
The covert wiretapping report was distributed to Commissioners, and that is listed on the agenda for today.

The Title IX athletics report was sent to Commissioners April 9th, with a request for comments by May 19th.

The Multi-ethnic Placement Act briefing report, staff has finalized findings and recommendations, and those are going to be incorporated into the briefing report, and that would be one that would be available for Commissioners. I know there are several reports out there right now. So that, I guess, should be part of the discussion in terms of prioritizing, but that report is one that is available for Commission review if there is a determination that we will want to put that one in the pipeline right now.

The illegal immigration report had the editorial and legal sufficiency reviews conducted. The outreach was done to the panelists to make sure that we had incorporated their testimony properly. The findings and recommendations have been prepared for that report, and I am currently going to a final review of that report before making that available to submit to Commissioners.
The encouraging minority students to pursue careers in science, engineering, technology and mathematics, we have received final clarifications from the panelists. The office of Staff Director attorney advisor has submitted the draft report to the Staff Director, and she and the Director of OCRE are developing draft findings and recommendations to be submitted, and that report will then be available very soon for submission for the editorial and legal sufficiency reviews.

The educational effectiveness of historically black colleges and universities report has been completed with findings and recommendations, and there has been some discussion as to whether that report should be considered and released jointly with the STEM briefing report.

The discrimination against Native Americans in border towns, OCRE is making some final changes to that report. It was submitted previously to the Office of the Staff Director, and OCRE has been asked to make some revisions and resubmit it, and they are in the process of completing that resubmission.

The Blaine amendments briefing report is with the General Counsel. It has been involved with some other matters recently, but will be turning back
to completion of that report in the near future.

The English in the workplace briefing comment period was extended to April 20th. So that period is now closed. There were approximately 250 comments received from the public generally arguing that the EEOC should not be suing businesses and nonprofits like the Salvation Army for having English in the workplace policies.

The Director of Federal Government Relations for English First submitted a letter that was critical of the EEOC's policies. Senators Tom Coburn and Lamar Alexander, along with 20 members of the House of Representatives, also submitted comments.

And that's the update on the briefing reports at this time, Mr. Chairman.

CHAIRMAN REYNOLDS: Questions?

COMMISSIONER MELENDEZ: Yes, Mr. Chairman.

Commissioner Melendez.

Is it possible that we could get either a checklist or time line or a written report on all he said? I tried to write down all the stuff as he went along, but it would be helpful if every business meeting we had just a report in writing that kind of has different categories of when the report first came into existence and how it's progressing and what's the
pending status in different columns, and then we could have it on one sheet or something like that.

CHAIRMAN REYNOLDS: You raise another point that needs to be discussed. We have a lot of briefing reports in the queue, and in terms of priorities, I think that we also, in addition to your suggestion, I would suggest that we discuss how we want to prioritize these briefing reports that are in the queue.

Commissioner Gaziano.

COMMISSIONER GAZIANO: Yeah, I was going to address that. I think I sort of tried to make clear at the last meeting. I certainly don't think that all briefing reports in backlog are equal, and that the passage of time has made some moot. Some have more currency because of current events.

It made sense that we put the Department of Justice voting rights enforcement, you know, somewhat ahead of some of the older ones. And what I would suggest is that we obtain -- and I'm not sure how -- this probably isn't very difficult, but a little bit more of a description of what is contained in them, and I'll tell you why.

On the next item in the agenda is consideration of the briefing report on covert
wiretapping. When I saw that title, I didn't know what that was, and when I actually read the report, it raised, you know, new issues for me, which I'll bring up at the next agenda item, and I think if we had a little bit more information on each of these, then maybe at our next business meeting we may put one on the queue as it is, but on our next agenda or maybe in between there could be some solicitation from the Staff Director on what our prioritization is, and then we could take a vote at the next meeting.

But I'd like a little bit more information, particularly on those that I was not on the Commission for, and there are other Commissioners who weren't present for some of these.

CHAIRMAN REYNOLDS: Okay. Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: No, go ahead.

CHAIRMAN REYNOLDS: No.

VICE CHAIR THERNSTROM: I was just going to ask Commissioner Gaziano. As I look at the list as I wrote it down, it doesn't look to me as if mootness is a problem with Title IX, multi-ethnic placement, legal immigration, STEM, HBCUs, Native Americans, Blaine amendments, English in the workplace. Do you think some of those topics are moot?
COMMISSIONER GAZIANO: Most of those, but you skipped over legal immigration, and I just don't know what it covered.

VICE CHAIR THERNSTROM: No, I actually included that.

COMMISSIONER GAZIANO: Oh, I didn't hear it. I mean, that may be the most important, depending on what we cover. So we may want to put that at the front of the line. If I knew a little bit more about it, I don't know what the specific focus of the Title IX briefing was, and so maybe the specific focus of the Title IX briefing was on something that Congress has amended or guidelines that have been issued. So perhaps that is more or less moot. I just don't know without knowing a little bit more about -- those two are just examples.

I think the illegal immigration was one that I was on the Commission, but had to miss that briefing. Is that the one that was March of 2008?

STAFF DIRECTOR DANNENFELSER: April.

COMMISSIONER GAZIANO: I'm sorry, yeah, April. That's one that I -- so, you know, I think I know a little bit more about what that one was about, but the Blaine amendment one, I don't know if there has been some action, but if it's not too much of a
problem to get a little bit more of a description, that might be helpful in just deciding whether we want to get the immigration one out before the Title IX athletics one, for example.

STAFF DIRECTOR DANNENFELSER: Well, the one at Title IX has actually been sent to Commissioners.

COMMISSIONER GAZIANO: Oh, I'm sorry. You're right.

STAFF DIRECTOR DANNENFELSER: But there are a number of others. I guess once you begin with the Multi-ethnic Placement Act on the list that was with the binders this month, I guess those are the ones that have not yet been sent to the Commissioners.

COMMISSIONER GAZIANO: There is some litigation in Blaine amendments right now. That might be more topical or relevant for us to get out, and I don't know if anyone else has a better idea as to how we should be -- do other Commissioners like the idea of being told and then discussing it at our next business meeting?

Is that unnecessary?

CHAIRMAN REYNOLDS: Well, I think it's a good idea that we get a description of each briefing report and suggest a prioritization of the briefing
reports, and then at our next business meeting, we
could, you know, decide what has higher value.

VICE CHAIR THERNSTROM: The Blaine
amendment, one, as I understood it, will be completed
very soon; is that correct, Mr. Staff Director?

STAFF DIRECTOR DANNENFELSER: It should be
relatively soon. The General Counsel is very involved
right now with the statutory report. So he has not
been able to devote as much attention to that report
as he might otherwise, but it is substantially
completed. It does need some more work to get it into
final form though. But then it would have to undergo
some internal reviews once it goes to that point.

VICE CHAIR THERNSTROM: As I understand
it, in each case they are substantially down the road
of being in shape --

STAFF DIRECTOR DANNENFELSER: Yes, they
are.

VICE CHAIR THERNSTROM: -- for us to
consider.

STAFF DIRECTOR DANNENFELSER: The English,
yeah, with the exception of the English in the
workplace report, I think that's accurate to say.

VICE CHAIR THERNSTROM: Okay.

COMMISSIONER GAZIANO: But given our time
and attention, you know, we should focus on those that it's more important to focus on first.

CHAIRMAN REYNOLDS: Yeah, and just the time constraints. We have a fair number that are ready, and it is possible that -- I mean one approach would be to just release them as they're completed. I think that we would be overwhelmed.

So I think that we need to establish some type of priority and move forward in a methodical fashion.

Commissioner Heriot.

COMMISSIONER HERIOT: This is kind of off topic, but I need to bring it up. It's the second time I've brought it up, but it's just something that occurred to me at this moment and you can tell me when I should bring it up.

We've seen the release reports, such as the proposed report that we have in our book here, where we in very large numerals put the date of the actual briefing, in this case March 9th, 2007. You might as well put a big red flag for newspapers to say this report is old and washed up and you shouldn't bother to read it. We should not be dating our reports the date of the actual briefing. It should be the date that the report is released, and that will
always be a future date as far as the meeting is concerned.

CHAIRMAN REYNOLDS: Agreed.

COMMISSIONER HERIOT: Really, if you took this and put it in front of a newspaper reporter, you'd have to pay them thousands of dollars to even look on page 2 if it's got a date like that on it, and it says we can't do that. Let's put the date the report is really released. This is a report on covert wiretapping in a War on Terror, and it's the date that --

CHAIRMAN REYNOLDS: And it's clear within the body of the document.

COMMISSIONER GAZIANO: Of course.

COMMISSIONER HERIOT: The briefing occurred on March 9th, 2007, but the report --

CHAIRMAN REYNOLDS: Right.

COMMISSIONER HERIOT: -- is, you know, June 30th, 2009.

COMMISSIONER GAZIANO: Yeah, and obviously our findings and recommendations and Commissioner statements are an important part of the report.

COMMISSIONER HERIOT: This is actually an issue that we've brought up before. It's just we didn't --
STAFF DIRECTOR DANNENFELSER: The actual outside covers of the report do have the date when the report is published, but we can adjust the inside papers as well.

COMMISSIONER GAZIANO: Why? Have we got to make it --

COMMISSIONER HERIOT: This is the part that has --

STAFF DIRECTOR DANNENFELSER: Well, that would not be the cover of a printed report, but that is, say, the inside cover, if you will.

COMMISSIONER HERIOT: Well, I want to see that date prominent.

COMMISSIONER GAZIANO: Yeah, prominently, yeah. I think on our Website they appear that way, too. So it looks like we haven't issued any reports in the last year.

COMMISSIONER HERIOT: I talked to someone yesterday who asked me why the Commission had not issued any reports in years, and they were going on the basis of the date they were seeing on the Website.

CHAIRMAN REYNOLDS: Sure.

COMMISSIONER HERIOT: And it was very embarrassing.

STAFF DIRECTOR DANNENFELSER: Well,
obviously when the Commission takes up the findings and recommendations, those are much more current, and they're a significant part of the report.

CHAIRMAN REYNOLDS: Well, this is an easy fix. I think that Commissioner Heriot is right. When we publish a document that should be the date that's front and center.

Additional comments, questions?

COMMISSIONER YAKI: So we're not going to be relegating the data of the brief into a footnote, are we?

COMMISSIONER HERIOT: It goes in the text. Yeah, it goes in the text, "on March 9th, 2007, a panel of three experts."


COMMISSIONER GAZIANO: It could even be in the table of contents.

CHAIRMAN REYNOLDS: -- of who, what, when, where.

COMMISSIONER YAKI: I very uncomfortable with the fact that the only reference to the date of the briefing would be within the text itself.

COMMISSIONER GAZIANO: It can be in the table of contents.
CHAIRMAN REYNOLDS: Okay. Additional questions?

COMMISSIONER YAKI: Is this a formal policy that's being adopted? Should we vote on it? Is there a motion on the floor?

CHAIRMAN REYNOLDS: No, this doesn't rise to the level of policy. These are editorial -- it's an editorial adjustment.

COMMISSIONER YAKI: I just want to state --

COMMISSIONER HERIOT: On the other hand, I don't want to see the mistake made --

COMMISSIONER YAKI: -- I just want to state my objection --

COMMISSIONER HERIOT: -- again.

COMMISSIONER HERIOT: -- on the record.

CHAIRMAN REYNOLDS: Okay. You've done so.

COMMISSIONER HERIOT: Can we vote on it? I don't want --

VICE CHAIR THERNSTROM: Let's not have a vote on it.

COMMISSIONER HERIOT: Wave your arms and say, "Don't forget this." It's something that we'll make sure that nobody forgets this.

VICE CHAIR THERNSTROM: Yeah, we've
already agreed to it.

CHAIRMAN REYNOLDS: Remind me during a break or after we're done here. I just want to respond to that off the record.

In any event, moving on, next up approval of the briefing report on covert wiretapping in the War on Terror.

V. PROGRAM PLANNING

APPROVAL OF BRIEFING REPORT ON COVERT WIRETAPPING IN THE WAR ON TERROR

CHAIRMAN REYNOLDS: Based on information offered during the Commission's March 9th, 2007, briefing, staff offers for approval a draft report on covert wiretapping and the War on Terror. Part A of the report is up for consideration at this meeting.

Because the issues dealt with during the briefing have largely been rendered moot by policy changes made during the Bush administration and by subsequent legislation passed by Congress, staff did not recommend findings and recommendations. After Part A was distributed to the Commission along with staff recommendations against findings and recommendations, Commissioners Yaki and Melendez requested an opportunity to draft findings and recommendations that could be considered at a
subsequent meeting.

That request was approved. Assuming that Part A is approved today, our findings and recommendations will be considered at a subsequent business meeting, and the period for Commissioner comments will not begin until such consideration, according to our standard practice.

I move that the Commission approve for publication Part A of the report produced by staff and reflecting Commissioner and panelist input on Commissioners' March 9th, 2007 briefing on covert wiretapping in the War on Terror, as distributed in draft form to Commissioners on May 7th.

Is there a second? Pretty please.

COMMISSIONER HERIOT: Do you really want --

COMMISSIONER GAZIANO: If we do not have a second we won't go.

COMMISSIONER YAKI: I'll second it.

CHAIRMAN REYNOLDS: Okay. Discussion?

COMMISSIONER GAZIANO: Okay. I'd like to, Mr. Chairman, a substitute motion that the Commission --

COMMISSIONER HERIOT: Well, wait, wait, wait. If Yaki is seconding this, we can just vote. I
thought you had a procedural objection.

COMMISSIONER GAZIANO: Oh, no.

CHAIRMAN REYNOLDS: Yes, thanks for reminding me.

COMMISSIONER HERIOT: Do you want to withdraw that second or do you want to --

CHAIRMAN REYNOLDS: Commissioner Yaki, there is a technical problem. We have some steps that should be taken prior to a briefing report being brought here for a vote.

Mr. Staff Director, could you describe what happened or at least what the deficiency is?

STAFF DIRECTOR DANNENFELSER: The reports that go through the various review, the editorial review and the legal sufficiency reviews, and those have been done, and then a checklist is sent along with the report to an external reviewer. We did not complete the external review process for this report. So that part of it is not complete at this point.

COMMISSIONER YAKI: Then why are we bringing it up now?

CHAIRMAN REYNOLDS: This was brought to my attention yesterday.

COMMISSIONER YAKI: Just move to table it for the next meeting.
CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: I have a substitute motion then unless you've formally -- you were suggesting that. Let me offer my substitute amendment first.

I move that the Commission cease work on this report and not complete the external review on two grounds. The first is that the majority of the legal discussion is now moot and not within our jurisdiction, as the witnesses and some of the Commissioners pointed out at the time of the hearing, and that the issue that was potentially within our jurisdiction, whether there was any racial profiling going on, the Commission did not obtain any evidence sufficient one way or the other on that question, and it would be a waste of Commission resources for us to expend further time on a report that did not produce sufficient evidence one way or the other of the matter in our jurisdiction.

COMMISSIONER HERIOT: I'll second that motion.

CHAIRMAN REYNOLDS: Discussion.

COMMISSIONER YAKI: Yeah. I mean, well, this is interesting. I've never seen a position where we've decided to basically kill a report because a
couple of Commissioners decided that they just didn't agree with the evidence provided, given the fact that they're more than happy to do findings and recommendations on hearings with much less factual background or factual predicate.

I think that even in the case of the Omaha briefing, which was extremely late, that involved a statutory deadline that passed, we did not say it's irrelevant; it's not worth the use of staff time; we're not going to release it. We did, indeed, approve the Omaha report.

COMMISSIONER HERIOT: No, we did not

COMMISSIONER YAKI: It's on the Website.

COMMISSIONER HERIOT: Well, it shouldn't be because we did just the opposite. We did exactly that to what we're doing to this one.

STAFF DIRECTOR DANNENFELSER: There was a motion to just put the transcripts and the testimony on the Website, but not to issue it as a formal report, Omaha.

COMMISSIONER YAKI: Well, actually I remember.

COMMISSIONER GAZIANO: Let me clarify my motion. I don't mind the transcript remaining on the Website. Let readers see what I'm saying today, that
most of it covered matters not in our jurisdiction.

CHAIRMAN REYNOLDS: Well --

COMMISSIONER GAZIANO: And that which was discussed --

COMMISSIONER YAKI: I would strong object that it did not -- it did cover matters within our jurisdiction, that when you look at the racial and religious profiling that went on during that time period from the testimony that was produced by members of the Islamic community, that it is important that we continue to put this information out there because certainly to forget it is, I think, a very dangerous precedent.

It deals with a very uncertain time in our country. It dealt with direct actions by our federal government against a discrete and identifiable group of people based upon issues of race and religion.

COMMISSIONER GAZIANO: There was no evidence of that.

COMMISSIONER YAKI: And the --

COMMISSIONER GAZIANO: There was assertions to --

COMMISSIONER YAKI: Well, I would assume that in half the stuff that you put out, Mr. Gaziano. There's no evidence backing anything that you put
out, but I am not going to go over that.

COMMISSIONER GAZIANO: I didn't -- I didn't direct it to you personally, Commissioner. Commissioner Yaki, I did not -- point of personal privilege, Mr. Chairman.

CHAIRMAN REYNOLDS: Commissioner Gaziano, let him finish.

COMMISSIONER GAZIANO: No. Point of personal privilege.

CHAIRMAN REYNOLDS: He has --

COMMISSIONER GAZIANO: When someone is attacked personally, they have a right to be --

CHAIRMAN REYNOLDS: -- you should not cut each other off, and at the time that you made your comment, he did not bring you up.

COMMISSIONER GAZIANO: Okay. Then give me the point of personal privilege as soon as --

CHAIRMAN REYNOLDS: No, defend your honor.

COMMISSIONER GAZIANO: -- as soon as he is done.

CHAIRMAN REYNOLDS: Done?

COMMISSIONER YAKI: Hell no.

CHAIRMAN REYNOLDS: Roll on, roll on.

COMMISSIONER YAKI: I think I have worked with the Islamic community on issues from Persian Gulf
War, from the first Persian Gulf War, Desert Storm, and in the aftermath of 9/11, and as we went forward in the second Gulf War, and I can tell you that I even went to a workshop attended by the FBI, hosted by the Islamic community probably only a year ago where the issues are still pertinent, where there is still ongoing reconciliation, where the sensitivity levels have been raised, but they've only been raised because a spotlight has been shown on them.

I think that the idea that there were no evidence or facts produced is silly. I think it's silly in the fact that we had, I think, very compelling testimony from people involved about how actions were being taken. I think there were materials introduced into the record afterwards that talked about it at even greater length, and I am just offended that for an issue that continues to have relevance today why we would simply pretend that it is of little importance to the Commission, little priority to the Commission, not worth -- in the words of a fellow Commissioner a waste of any Commission resources to spend on it, and if this is the position that the Commission wishes to take, given that this was a briefing that I tried to get on for two years and it has taken three years or so, another two years
to get this report out; you know, if that's the Commission's role, fine, but I will make sure that everyone who came, who I have spoke with, who came to this, understands what you did and why you did it because it is very clear that if you take this position, you are showing incredible insensitivity to a segment of our population, Americans, who were targeted, who were harassed, and for whom perhaps the laws of government may have expired now, but there are continuing issues with it.

Senator Specter has legislation that talks about this.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: I just want to put this out there. It is not an issue that is going away or has gone away. In fact, it seem to repeat itself with alarming regularity at various intervals in our nation's history.

CHAIRMAN REYNOLDS: Commissioner Yaki, we've got to give other folks an opportunity.

Commissioner Gaziano.

COMMISSIONER GAZIANO: Well, let me be clear. On several of the points I think I was clear already, but given Commissioner Yaki's statements, I apparently was not.
Regarding 70 to 80 percent of what the briefing was about is whether the international call program that was terror surveillance program that was leaked to the press that intercepted international calls between suspected terrorists abroad and suspected allies in the United States, whether that is constitutional, is within the President's inherent authority is not within our jurisdiction.

CHAIRMAN REYNOLDS: Commissioner Yaki, do you believe that that issue is within our jurisdiction?

COMMISSIONER YAKI: I believe that if the usage of the program was targeted on people's last -- based on their ethnicity, religion or whether they categorized their last name as belonging to a specific ethnicity or religion, yes, I do.

COMMISSIONER GAZIANO: Okay, and that one aspect --

CHAIRMAN REYNOLDS: Working as a facilitator here.

COMMISSIONER GAZIANO: But let me try to finish my thought. That one aspect, I don't think any Commissioner thinks wasn't important.

CHAIRMAN REYNOLDS: Do you agree with his statement that if someone was targeted because of
their ethnic background that does implicate our
-- that it falls within our jurisdiction?

COMMISSIONER GAZIANO: If it was -- to
study, to study and to see if (a), in fact, that was
true and (b), in fact, whether that may have in part
been justified.

Yes, let me get to that. There were
Commissioners and witnesses who engaged in that,
whether there was any evidence that Swedish Americans
who were calling certain suspected terrorists abroad
were listened to any more than Arab Americans who were
calling suspected terrorists abroad, and there was no
evidence one way or the other that was obtained.

I'm not sure that there was a likelihood
that given it was a top secret wartime program that
the Commission would have been able to obtain that
evidence, but to the extent that there was a hope that
we could have produced that kind of evidence, maybe
that was a reason to go through with the hearing.

But the record produced no evidence of
that one question that is in our jurisdiction one way
or the other. It's an important issue that I think we
all agree, and to this day I don't think Congress on
the public record or anyone else has been able, you
know, knows definitively what the result is.
But our record, this report -- by the way, I want to commend the staff. I think it's a well done summary of what the witnesses who were speculating about many of these things on the legal issues not under jurisdiction. There was a flat disagreement. There was a lot of attention paid to whether District Judge Diggs' opinion was going to be affirmed or reversed. We now know the footnotes in the report says it's reversed, but I, again, think it's a waste of our resources to publish this debate which is now moot.

On the question before us, however, we produce no evidence one way or the other to make findings. We have no evidence in the record on that question, but as to the personal attack, Commissioner Yaki, I did not say that you did not produce this. I would appreciate an apology from you, and if I don't receive it, it'll -- it'll -- it'll be in keeping with prior comments that you've made.

CHAIRMAN REYNOLDS: All right. All right.

Commissioner Heriot.

COMMISSIONER HERIOT: Okay. I agree with Commissioner Yaki that if we held a briefing on whether or not Americans of Middle Eastern extraction have been targeted, that that would be certainly
within our jurisdiction. The evidence didn't really go to that. We didn't have someone saying, "Yes, it is targeted," and someone saying, "No, it isn't." We're not making a decision on the facts here.

There was very little even passing discussion of that.

I also agree with Commissioner Yaki, although I'm not dead certain that you ever said this, Commissioner Yaki. I was told that you said that at the Commission we should subpoena witnesses on this issue. I agree we should subpoena a lot more than we do. That's our comparative advantage.

A lot of people do research on civil rights issues. We are the one institution that can do research on civil rights issues and make sure people do, indeed, deliver data to us, and it seems to me we should use that a lot more.

But we didn't use it in this report. So what we have are a few witnesses who really didn't know that much about the program. We didn't learn that much about the program. Unless we can show that there was discrimination on the basis of national origin, it's not within our jurisdiction. It is certainly moot.

So I can't imagine a report that we should
less want to spend time on. If we were to issue findings and recommendations, I can't see how they would be anything other than we didn't have any evidence and, therefore, we don't have any opinion. That's not a good use of our resources.

Had we had a better briefing, perhaps we could have done something here. Perhaps we could have issued an opinion that there was no discrimination on the basis of national origin or that there was discrimination on the basis of national origin, but from this record we don't have a prayer of doing that.

CHAIRMAN REYNOLDS: Commissioner Yaki, before you start, I just want to make one brief point. I was living in Washington, well, on 9/11, and you could cut the fear with a knife. They had a gentleman that sold ties, a Sikh gentleman, not too far away from the Department of Education, and you could smell the fear on the man.

There were a number of incidents around the country. In fact, we did work to insure that a school in Brooklyn that has a high percentage of Muslim children were protected. There were definite problems, still are to a far less degree, but I don't get the sense from the transcripts that that briefing was focused on those types of issues.
My assumption and voting to have this briefing report, my vote rested on the assumption that we would have a different focus, you know, people being targeted because they are from the Middle East or are perceived to be from the Middle East. That was not the primary thrust of the briefing based on my review of the transcripts.

Commissioner Yaki.

COMMISSIONER YAKI: Yes. I mean, I would say it would be an understatement for me to say that I was unresolved by how this briefing actually got put together. I had actually submitted a far greater list of people to talk about the issues that I was concerned about, Kareem Shora being the only one who made it on, but there were at least two others who I wanted on the list as well to talk about this from the aspect of the Islamic American community.

VICE CHAIR THERNSTROM: Were they asked to appear? Do you know?

COMMISSIONER YAKI: I don't know. I mean, it was one of those things where it just kind of went into a previous factor and it went into somewhere and it didn't come out.

But I will say this, and that is rereading what Mr. Shora said and the summaries of the question.
and answer, I think it would be a great disservice to kill this report, and I think that one of the reasons why Commissioner Melendez and myself asked for it to be bifurcated so that we could work on some findings and recommendations is precisely because we are unsatisfied with what it did and what it could have done.

And in fact, what we were talking about just the other day was that our findings and recommendations were not going to be the findings and recommendations that this Commission generally puts together, which I always think are made out of straw and paper string and paper mache, but what the original purpose of a briefing was, which is to raise questions, to point to areas of further inquiry and oversight for policy makers. That is what our proposed findings and recommendations are going to be about.

They are not going to be conclusions that state that it is without a doubt that 99 percent of the Islamic American community was targeted by the FBI and the CIA for covert wiretapping. We don't know that, but what we do know is that representatives of that community have communicated to me and have said in this thing that there were a number of different
programs, including this, where they received many, many anecdotal stories about how they were getting phone calls at hospitals, overseas, and they were getting phone calls at their home, and they were getting FBI visits up there at their house, what have you.

It begs the question of, well, what should we be doing based on just what we have so far. What should we be looking for? What are the things that we as a Civil Rights Commission should be concerned about implementation of this or any subsequent programs of its ilk in the future?

That is, frankly, what Commissioner Melendez and myself proposed to do with the proposed findings and recommendations. By killing this out, you deny us the ability to, I think, point what we think are the deficiencies in the report, where we think further inquiry could be developed, and what issues policy makers should be concerned about in the future for this and other types of programs in the context, in the context of why these things happened again.

I am telling you this. To simply bury this report is to simply pretend that these events and the paranoia or whatever didn't occur, and it's one of
those instances where if you forget about it, you do it again, and I don't want to see that happen. It has happened before.

So if you want to go ahead and do it, find. But I'm just telling you what we were going to propose to do with our findings, which was not to make grandiose conclusions based on spit and bailing wire, which is what I think, quite frankly, a lot of our conclusions in our briefing reports are done, based on scantier evidence than produced here, but to talk about what needs to be done, what needs to be looked at, what inquiries should be followed, that is a far different kind of creature.

If you don't want to hear that, that's fine, but I'm just going to go back and tell everyone that when it comes to an issue of this import to the civil liberties of American in this country, this Commission decided it wasn't worth the paper to print.

COMMISSIONER HERIOT: Why don't we instead of doing a report because a report has so much stuff that is so clearly outside our jurisdiction, and the factual basis is something; why don't you write your proposals and such not as findings and recommendations for this report, but as a letter to Congress that the Commission could send?
VICE CHAIR THERNSTROM: Well, and publish on our Website as well.

COMMISSIONER HERIOT: And publish on our Website if we adopt it.

VICE CHAIR THERNSTROM: Yeah. No, I think that --

COMMISSIONER HERIOT: Because otherwise we have like this long report that really doesn't bear that much on what your concerns are. Your concerns are more narrow than that, and your concerns are more what the Commission is supposed to be doing and not what's in this report. Write the letter. Bring that up at the next --

CHAIRMAN REYNOLDS: Please respond.

COMMISSIONER YAKI: Well, I'm sorry. I think that the context of the report is important for what it is that Commissioner Melendez and I would propose to do. The very fact that we were -- please let me finish.

The very fact that we were denied access to a lot of information, the very fact that there were I would say a fair amount of stonewalling going on by those who defended the program is exactly the kind of context that I think is important for what Commissioner Melendez and I choose to do. Without
that context, it simply appears in thin air.

And you know, to simply make this report go away to never see the light of day is to ignore that context and, quite frankly, if you're so dead set about doing this, then I'm just going to say this. The appendix to my letter is going to be the whole damned report. The transcript, everything else is going to be on the Website, and if it's not on the Website, then I think that, you know, this is just, you know, sandbagging of immense proportions.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Well, my understanding is that there is no dispute that the transcript needs to be on the Website. Am I incorrect?

COMMISSIONER HERIOT: It's there.

CHAIRMAN REYNOLDS: Well, I do have a concern. I mean if there is a consensus that we lack jurisdiction, I don't see how anything goes on our Website that's out of our jurisdiction.

COMMISSIONER HERIOT: How are we to determine if it has jurisdiction? We held the briefing.

VICE CHAIR THERNSTROM: We did hold the briefing.
COMMISSIONER HERIOT: It wasn't inappropriate to hold a briefing that we thought could, you know, be touching on discrimination on the basis of national origin.

VICE CHAIR THERNSTROM: Yeah, I --

COMMISSIONER HERIOT: I think it's okay to leave that transcript.

VICE CHAIR THERNSTROM: That transcript has to remain on the Website, the statements of witnesses and so forth, and I do like Commissioner's Heriot's proposal, and I think that you can make sure and particularly given the fact that the transcript would be on the Website, that whatever you write makes the context clear.

I was going to raise my hand before Commissioner Heriot spoke to ask whether there was a way in which we could hear from you and Commissioner Melendez without going forward with this report as a compromise.

Two things. One, I do have to say, and this is important, that I was at neither of the briefings, nor have I read the material. I just have not had a chance to. But I do have procedural problems with anything that smacks of silencing you and Commissioner Melendez.
And so, therefore, I very much like what Commissioner Heriot is proposing, provided the transcript and the statements of witnesses are also on the Website.

COMMISSIONER HERIOT: Wait. If a letter were to be posted on the Website, it has to be adopted by a majority.

COMMISSIONER GAZIANO: Correct. I was just --

VICE CHAIR THERNSTROM: Well, it has to be adopted by a majority. As a letter from two Commissioners.

COMMISSIONER HERIOT: We don't put individual correspondence.

COMMISSIONER GAZIANO: Mr. Chairman.

COMMISSIONER YAKI: We have in the past.

COMMISSIONER GAZIANO: I would certainly encourage Commissioners Yaki and Melendez to draft such a letter as well, and I hope that we could all join it, and I certainly would be happy for them to quote from whatever part of the transcript they want, but --

COMMISSIONER YAKI: That is such B.S.

COMMISSIONER GAZIANO: Would you please not interrupt.
CHAIRMAN REYNOLDS: Commissioner Yaki

COMMISSIONER YAKI: That's it. That's it.

This is just ridiculous.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: You guys have just gone beyond --

CHAIRMAN REYNOLDS: Commissioner Yaki.

(Simultaneous conversation.)

COMMISSIONER YAKI: The idea that the transcript alone --

CHAIRMAN REYNOLDS: Commissioner Yaki, I have --

COMMISSIONER YAKI: The idea that the transcript alone will suffice --

CHAIRMAN REYNOLDS: Commissioner Yaki, I had this conversation with Commissioner Gaziano. Let him finish.

COMMISSIONER HERIOT: Let the record reflect that Commissioner Yaki has been screaming, yelling, and is how storming out of the room.

COMMISSIONER YAKI: No, no. Storming would be inappropriate. Screaming would be inappropriate. Raising my voice in utter disbelief that this Commission would take this report --

CHAIRMAN REYNOLDS: Well, we could debate
COMMISSIONER YAKI: -- and bury it in the trash can because they don't agree with it --

CHAIRMAN REYNOLDS: We should be --

(Simultaneous conversation.)

CHAIRMAN REYNOLDS: -- on the record.

VICE CHAIR THERNSTROM: Commissioner Yaki, I have not understood what you said in response to my other --

COMMISSIONER GAZIANO: I still have the floor, I believe.

CHAIRMAN REYNOLDS: Time out, folks.

VICE CHAIR THERNSTROM: I would like to hear from Commissioner Yaki.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom, Commissioner Gaziano has the floor. When he is done --

VICE CHAIR THERNSTROM: Okay. It's just that I didn't understand Commissioner Yaki.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom --

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: -- let's try to proceed in an orderly fashion.

COMMISSIONER YAKI: You mean Commissioner
Tattle-tale?

CHAIRMAN REYNOLDS: Whatever that means.

Commissioner Gaziano.

COMMISSIONER GAZIANO: As I was saying before I was so rudely interrupted, I would be happy for Commissioners Yaki and Melendez to write the kind of letter that Commissioner Yaki says he was thinking of proposing for finding and recommendations. It doesn't sound like though it would be appropriate as a finding and recommendation, and that's why I think it's much more suitable as something else.

But I hope for it to garner a majority vote or I expect for it to garner a majority vote and be eligible for posting on our Website that he stick to points that we all would agree with, and I think the areas of agreement are the concerns that were raised by many in the Arab American Community are suggestions that any one terrorism surveillance needs to be very careful not to engage in racial profiling based on assumptions and stereotypes.

If that is the letter that the other Commissioners are suggesting or the document, I think that it would garner majority support. If it is, you know, based on speculation about the prior program and contains an inherent condemnation, then I'm not sure
it will garner majority support, but that sounds like
something we should be working on.

If we can come to a consensus on that and
we can send it to Congress and we can send it to the
President, I think that would be valuable.

CHAIRMAN REYNOLDS: Yeah, reaching
consensus. It's possible I could be a point guard for
the New York Nicks next year.

(Laughter.)

CHAIRMAN REYNOLDS: Possible. I suggest,
to the extent -- well --

COMMISSIONER GAZIANO: All right. Let me
-- to the extent that 90 percent of this Part A is not
on any of that which Commissioner Melendez says --
Commissioner Yaki says he wants to write, I don't
think it's appropriate to go forward with publishing
Part A. I think that the other Commissioners can
achieve all they intend and more by a separate
document that we can all approve, if indeed it's what
the Commission represented.

CHAIRMAN REYNOLDS: Anyone want to remind
me where we are procedurally?

COMMISSIONER HERIOT: We've got a motion
to terminate this project --

CHAIRMAN REYNOLDS: Okay.
COMMISSIONER HERIOT: -- that has been seconded.

COMMISSIONER MELENDEZ: Melendez here.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Yes. You know, just going back through, you know, briefings in general, we've invited these people in to come and give their positions, pro or con, on issues, and I think the people who testified, you know, they don't want to be doing this for nothing. They came here, and it's a sad fact that we didn't pick the right people. That's too bad. I mean, we've had situations where we don't have to issue recommendations or anything like that. We can just basically write a briefing as to what these people actually said, you know.

COMMISSIONER HERIOT: But, you see, that's already on the Website. You see, remember our report is nothing but a summary of the transcript. Well, we've already got the transcript on the Website. So they're actually better served. This way they can't be misrepresented.

COMMISSIONER MELENDEZ: Well, I'm just saying I think the briefing should be treated like we treat our other briefings and not really waste our
time of going through all of this, which costs money
bringing people in and then all of a sudden we say,
well, whatever these people said isn't worth moving
forward.

So I'm just saying that we should just
continue to not have recommendations, like you said,
and put it into a report and send it Congress and the
President and whoever else wants to see it and be done
with it.

CHAIRMAN REYNOLDS: Any other comments?

COMMISSIONER YAKI: I have a comment.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Thank you very much,
Mr. Chair.

This is a report of approximately 53 pages
in length. It is a compilation of statements, a
summary, biographies of the speaker which is not
available in the transcript. I just want to say that
I find it mind boggling that the Commission would bury
this report and simply say, well, the transcript is
good enough, when the whole point of why -- if that
were the case, why do we need summaries at all of
witness statements --

COMMISSIONER HERIOT: I don't think we do.

COMMISSIONER YAKI: -- in any of our
briefing reports.

COMMISSIONER HERIOT: Yeah, I think they're a complete waste.

COMMISSIONER YAKI: Because they just -- you can go, "Well done."

COMMISSIONER HERIOT: Yeah.

COMMISSIONER GAZIANO: Well, even well done --

CHAIRMAN REYNOLDS: Let Commissioner Yaki get through his statement.

COMMISSIONER YAKI: On the other hand, they do serve a good purpose in terms of helping to summarize, if they're accurate, statements and especially that question and answer session that follows.

I think that if the Commission chooses to do this, they do so at the peril of turning our back, one, on a community and, two, more poorly on our statutory mandate. We may narrowly define our statutory mandate however way we choose to, but I think that the whole purpose of what the Civil Rights Commission was brought about was to look to see where civil wrongs were being perpetrated upon Americans and to make that part of our jurisdiction.

We did not use -- we did not used to.
have expanded our jurisdiction. It has been actually part of the Commission's proud history that we took the mission of the Commission from beyond that of simply race to that of gender. That was part --

CHAIRMAN REYNOLDS: Understood that.

COMMISSIONER YAKI: But that was also part of our first reports that came out in the late 1960s or early 1970s. It was not simply a matter of Congress saying, "Include women." It was part of what the Commission started to take up in the early '70s on the issues of domestic violence.

I've read the history. That's what at least our own history says.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: So the question is -- the question is I think that the briefing does fit within our jurisdiction. I think that there's one part of the briefing that specifically fulfills our mission and our charter. I am not going to -- and if my colleagues choose to deny Commissioner Melendez and I the opportunity to present what we are calling findings and recommendations, which I think we're stuck on the nomenclature because, like I said, that's not really what we are going to do; it is more about lines of further inquiry, questions for the future,
issues that policy makers must consider.

Then so be it. Let them silence the minority on the Commission. Let me silence the Islamic American community who came to testify about it, and I will attempt to do something, and if it doesn't get five votes because it doesn't meet whatever moving standard my colleagues have, so be it. But I at least will go out knowing on this important issue for an important community and an important time in our nation's history I am not going to abdicate my responsibilities.

CHAIRMAN REYNOLDS: Okay. Commissioner Heriot.

COMMISSIONER HERIOT: I would like to state that no one in the history of the world has ever silenced Michael Yaki. I am sure there have been people who wanted to, but I'm also sure that they have failed, and that is certainly not what this Commission is trying to do.

I'm glad to hear the case being made more explicitly because it makes it much more clear that I can't support it. We don't make things part of our jurisdiction. Congress makes things part of our jurisdiction. We don't have the authority to expand our jurisdiction. It is set for us by the United
States Congress.

On the other hand, I think that Commissioner Yaki is looking a gift horse in the mouth. I think we really should consider such a letter, and if he can write a letter that he can pull a majority for on the narrow issue that we do have jurisdiction on, then that's a good thing, and rather than publish a report which goes on at great length about things that don't really bear on our jurisdiction and really are not likely to interest people who have already considered this issue, already read the cases, already formed their opinion about the issues, the Fourth Amendment issues, that's not what you want to focus on anyway. You want to focus on the civil rights issues.

Write a letter and it can be considered.

CHAIRMAN REYNOLDS: Okay. At this point are we ready to vote?

VICE CHAIR THERNSTROM: I don't know whether we are. I mean, this is a damned mess.

CHAIRMAN REYNOLDS: Okay. I call the question. All in favor please say aye.

VICE CHAIR THERNSTROM: I'm sorry. What is the --

COMMISSIONER GAZIANO: To suspend work, to
suspend work on this report.

CHAIRMAN REYNOLDS: So does everyone at this point know what we're voting on?

COMMISSIONER HERIOT: And that would allow Commissioner Yaki to write a letter --

CHAIRMAN REYNOLDS: I'm sorry?

COMMISSIONER HERIOT: -- to consider.

COMMISSIONER TAYLOR: Please state what we're voting on.

CHAIRMAN REYNOLDS: No, what we're about to vote on is whether we should stop work on this briefing topic.

COMMISSIONER TAYLOR: This is Commissioner Taylor.

And what is the basis of the information that we need to stop work on this report for? What specific reason?

COMMISSIONER GAZIANO: My stated reason and others may have different is that the great majority of it was on issues not within our jurisdiction.

By the way, one of the witnesses pointed out and one of the Commissioners seemed to agree, and that the small portion that was potentially within our jurisdiction produced no evidence one way or the other
whether there was racial profiling in the surveillance program and thus no ability for us to make findings and recommendations of any value.

COMMISSIONER HERIOT: And the legal issues are now moot because the case they spent a lot of time describing has, in fact, been -- was it vacated or --

COMMISSIONER GAZIANO: Vacated.

COMMISSIONER HERIOT: -- vacated by the Sixth Circuit, and you know --

COMMISSIONER GAZIANO: Reversed and vacated.

COMMISSIONER HERIOT: Reversed and vacated, and in addition, this program is no longer operative, if the person had any idea what the program was in the first place.

COMMISSIONER KIRSANOW: -- issue a report that says just that. (Unintelligible) jurisdictional guidelines that yielded no information and that, in fact, it may be moot.

And the second question for the Staff Director if how much more work needs to be done on this so that we would have a finished project.

VICE CHAIR THERNSTROM: I'm in agreement, by the way, with issuing a report that says precisely what Commissioner Kirsanow has just suggested.
COMMISSIONER GAZIANO: Under our normal procedures, just a point of clarification, we then would allow a debate on findings and recommendations that I don't think could be productive, and then we allow Commissioner statements and Commissioner rebuttals, and I think based on the record before us, that would be inappropriate use of our attention and our resources.

So the work on Part A seems to be almost done. I would have a quibble or two about one or two of the summaries, but I think that part is done, but there's still a lot more that we would do, and I don't see how we not put those portions of the report that are not within our jurisdiction on the record if we go forward at this time, unless we're going to completely rewrite --

COMMISSIONER KIRSANOW: I have a real problem with making statements about things that are not within our jurisdiction. What I mean by that is we can make a statement that much of what we adduced was not within our jurisdiction. We simply make it clear. We let the public know that rather than people wondering, well, what happened to this thing.

Second, if there's not too much work to be done on this I think that is where much of our work
should be confined to.

COMMISSIONER HERIOT: There's a lot of work in the Commissioner statements.

COMMISSIONER KIRSANOW: I have some degree of sympathy with what Commissioner Yaki has got to say here. I mean for purposes of the public, I think the Commission needs to make a statement with respect to this report. I think especially with the subject matter of this report. That statement may be, hey, we don't have anything to say, but I think we do have to say something.

COMMISSIONER GAZIANO: Well, to make it within our jurisdiction, what I meant by there's not much work needs to be done, there's not much work that needs to be done to summarize the statements that aren't within our jurisdiction. To make it a report that's within our jurisdiction, I think there would have to be a lot of work done. They would have to lop off about two-thirds of it and maybe individual sentences here and there. It doesn't seem to me that that makes sense.

There's a small portion that Commissioners or there seem to be a majority agrees in our jurisdiction, and we ought to kind of deal with that in some other way. The letter that Commissioner
Heriot suggested sounds like a meaningful way of doing that.

COMMISSIONER YAKI: Point of order.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER YAKI: When we scope this briefing out and in the preparation of the report, it would be my understanding that it would undergo review for legal sufficiency, et cetera. Did that not happen?

CHAIRMAN REYNOLDS: I'm sorry. Please repeat your question.

COMMISSIONER YAKI: The question is: are we basically trying to close the barn door after all of the horses have left. The fact of the matter is don't these reports undergo initial screening for legal sufficiency, jurisdiction at the preparation phase and then also in the report phase?

CHAIRMAN REYNOLDS: The answer is yes.

COMMISSIONER YAKI: So why are we having this discussion now?

CHAIRMAN REYNOLDS: There are a number of Commissioners who disagree with the conclusion.

COMMISSIONER YAKI: Well, why don't we ask the person -- was there not someone on the staff who goes through that and makes those --
CHAIRMAN REYNOLDS: I assume that that was done.

COMMISSIONER GAZIANO: What kind of legal sufficiency is done?

CHAIRMAN REYNOLDS: Jurisdiction.

COMMISSIONER GAZIANO: Pardon?

CHAIRMAN REYNOLDS: Jurisdiction.

COMMISSIONER GAZIANO: For every individual witness? I mean, it was possible that witnesses would have produced evidence within our jurisdiction.

CHAIRMAN REYNOLDS: Well, I don't know the --

COMMISSIONER GAZIANO: Until you know when the witnesses' statements are coming in if there's a possibility that they would be within our jurisdiction, you might not -- now we're in a different position than we were prior to the briefing. It's possible that the witness from the ACLU would have produced evidence on that. Mr. Shora sort of made some assertions on that.

I think it would have been on this issue where there was a possibility that it was within our jurisdiction impossible ot say it wasn't, but now that we see the testimony, two out of three of the
witnesses were exclusively beyond the jurisdiction. Most of the discussion was beyond our jurisdiction, and it didn't produce any evidence on the matter that was in our jurisdiction. We're in a different position.

CHAIRMAN REYNOLDS: On the front end, if we propose a topic during the review process on the front end, there is an analysis to confirm that the proposed topic falls within our jurisdiction. So I assume that that was done. The way the issue was framed, everyone had the expectation that the witnesses and the evidence offered into the record would fall squarely within our jurisdiction. Clearly that did not happen.

So, folks, where are we?

COMMISSIONER HERIOT: That motion.

CHAIRMAN REYNOLDS: Which one?

COMMISSIONER GAZIANO: Motion to suspend work on this particular report.

VICE CHAIR THERNSTROM: I don't think we're ready to vote on this, Mr. Chairman. I really don't. This does require more thought, more discussion. It could happen, you know, on a conference call or something, but I don't think we're ready to vote.
CHAIRMAN REYNOLDS: Do you think that the positions that have been expressed around the table today are going to change?

VICE CHAIR THERNSTROM: I do think that we might be able to come to the point of having -- we've got a report here, and it is really problematic to kill a report that is based on a briefing, and I think we might come to some agreement. There may be other alternatives or whatever.

CHAIRMAN REYNOLDS: The alternative that Commissioner Kirsanow put on the table, how does --

COMMISSIONER HERIOT: I think that's going to cause open ended Commissioner's statements, and it's going to be far more work than --

CHAIRMAN REYNOLDS: No, but why --

COMMISSIONER HERIOT: -- but I think it's going to happen.

CHAIRMAN REYNOLDS: -- why do you mind --

COMMISSIONER HERIOT: I think Abby is right. I think that if maybe we have a phone call on this later, I predict Commissioner Yaki is going to realize that my proposal is actually better for him. Maybe I'm wrong, but I think that he would be much better off doing it my way. It's going to be much more effective, and he might actually, you know, get a...
letter that the Commission --

CHAIRMAN REYNOLDS: Commissioner Yaki, how do you feel about that?

COMMISSIONER HERIOT: He's kind of grumpy right now, but I don't think he will be.

COMMISSIONER YAKI: Grumpy? I haven't opened my -- did she say "grumpy"?

(Laughter.)

COMMISSIONER YAKI: This is what I mean. I think that --

COMMISSIONER HERIOT: I really think that if he thinks about this, he's going to realize it's better.

CHAIRMAN REYNOLDS: Okay. I'll bite. I'll bite. Let me --

VICE CHAIR THERNSTROM: I don't want to vote on this today.

CHAIRMAN REYNOLDS: -- that you will change your mind.

COMMISSIONER HERIOT: Remembering that he has to come up with a letter that he can get on the --

COMMISSIONER YAKI: Given that this Commission has sent out letter that they have absolutely not intent of getting my opinion whatsoever, I find that an ironic statement coming
from --

COMMISSIONER HERIOT: Oh, you never send your own letter. You can send a letter with other Commissioners, but I'm --

VICE CHAIR THERNSTROM: We're interested in a letter we could post, Commissioner Yaki.

COMMISSIONER YAKI: But weren't we discussing that a little bit later in the agenda?

VICE CHAIR THERNSTROM: Well, anyway, if we could postpone this whole vote, it would make me very happy. I don't think we're ready to vote.

CHAIRMAN REYNOLDS: Does anyone want to make Vice Chair Ternstrom happy?

VICE CHAIR THERNSTROM: Of course.

CHAIRMAN REYNOLDS: Is there a second.

VICE CHAIR THERNSTROM: Everybody wants to make me happy.

COMMISSIONER GAZIANO: Move to table it for one month.

COMMISSIONER HERIOT: Okay. Well, no, to call. Abby was suggesting that we have a call.

VICE CHAIR THERNSTROM: If necessary.

COMMISSIONER HERIOT: I'm not in favor of --

CHAIRMAN REYNOLDS: Don't you want to have
this face to face?

COMMISSIONER HERIOT: No, I think we need
a fall.

COMMISSIONER YAKI: To be quite frank,
it's a Memorial Day weekend between now and our next
meeting.

VICE CHAIR THERNSTROM: Okay. I second
Commissioner Yaki's proposal.

COMMISSIONER HERIOT: I don't favor that.
CHAIRMAN REYNOLDS: Hold it. What's his
proposal?

COMMISSIONER HERIOT: I don't favor it.
CHAIRMAN REYNOLDS: Yeah, but I need to
know what the proposal is.

COMMISSIONER HERIOT: -- call in a week or
so and get the issue --

VICE CHAIR THERNSTROM: His proposal is to
discuss it at the next meeting.

COMMISSIONER GAZIANO: We have a briefing
at the next meeting.

COMMISSIONER YAKI: There is Memorial Day
between now and the next meeting.

COMMISSIONER HERIOT: There's always a
holiday.

COMMISSIONER YAKI: I will be unavailable.
CHAIRMAN REYNOLDS: Barbecuing.

COMMISSIONER HERIOT: We don't need to do it on Memorial Day.

COMMISSIONER YAKI: But perhaps there are some of us who take more than just one --

COMMISSIONER HERIOT: Yeah, it's 4th of July in July and there's Labor Day in September and there's Columbus Day and there's Halloween.

CHAIRMAN REYNOLDS: How do we feel about tabling this until the next business meeting?

COMMISSIONER HERIOT: I do not favor that.

COMMISSIONER YAKI: I favor that.

VICE CHAIR THERNSTROM: I favor that.

COMMISSIONER HERIOT: Let's do a call. I move we --

COMMISSIONER TAYLOR: Mr. Chairman, it sounds like we need a roll call.

COMMISSIONER GAZIANO: It would take six votes. Table. Tables take six votes.

COMMISSIONER YAKI: We're not tabling it. We're postponing it.

COMMISSIONER GAZIANO: Your motion is to table, and I think --

COMMISSIONER YAKI: Then I will reword my motion.
COMMISSIONER GAZIANO: I think that it is still a motion to table.

CHAIRMAN REYNOLDS: Okay, folks, folks, folks, just take it easy. We're making a little progress here. We're going to kick this can down the road.

(Laughter.)

COMMISSIONER GAZIANO: That's progress. We had a pending motion. We have a pending motion.

COMMISSIONER YAKI: I wish to amend my motion, Mr. Chair. I wish to place this on the agenda for consideration at the next business meeting.

COMMISSIONER GAZIANO: That's out of order, given the pending motion.

COMMISSIONER YAKI: Abby, who -- you seconded my --

VICE CHAIR THERNSTROM: I did second it, and can we regard it --

COMMISSIONER GAZIANO: Whether it's in name or just in form, that's a motion to table.

CHAIRMAN REYNOLDS: Folks, folks.

COMMISSIONER GAZIANO: If we can agree, I would like to resolve this in a call. I will withdraw my motion.

CHAIRMAN REYNOLDS: Let's -- let's --
COMMISSIONER GAZIANO: I will withdraw my motion if we can do this in a --

CHAIRMAN REYNOLDS: Whether it's a call or face to face, the issue is timing.

VICE CHAIR THERNSTROM: Will you withdraw your motion so --

COMMISSIONER HERIOT: We need to do it soon. You know, every time we kick something into the next business meeting --

CHAIRMAN REYNOLDS: Shortly after the Labor Day holiday or the Memorial Day. That's really kicking it down the road.

STAFF DIRECTOR DANNENFELSER: We couldn't notice in time to do it then anyhow. We couldn't notice it in time to do it before Memorial Day. So it would have to be after.

COMMISSIONER HERIOT: I'm happy to do it, you know, before --

CHAIRMAN REYNOLDS: On the other side of the holiday.

COMMISSIONER HERIOT: -- before -- on the other side of the holiday.

COMMISSIONER GAZIANO: Before the next briefing.

COMMISSIONER HERIOT: Before the next
meeting.

CHAIRMAN REYNOLDS: yes.

VICE CHAIR THERNSTROM: Or what about carving out the time at the briefing for --

CHAIRMAN REYNOLDS: Hold on. Let's get this -- before we introduce -- before we introduce another option, how do you feel about that compromise?

COMMISSIONER YAKI: I'm going to be away in a place that has no cell phone reception.

COMMISSIONER HERIOT: From when to when?

CHAIRMAN REYNOLDS: From now until the next meeting, eh?

COMMISSIONER YAKI: Pretty much. My schedule has changed, as you know.

CHAIRMAN REYNOLDS: Okay, folks.

COMMISSIONER HERIOT: I hope you're not under oath.

CHAIRMAN REYNOLDS: Folks, let's try to be somewhat reasonable and somewhat rational. Let's try to compromise. It won't be at the next meeting. It won't be next week. Let's look at our calendars and see what works. Let's try to get this done shortly after the Memorial Day holiday.

Surely --

COMMISSIONER YAKI: Why don't we just meet
the day before -- meet on June 7th to discuss this, three o'clock in the afternoon. June 11th. Or whatever it is, June 11th.

CHAIRMAN REYNOLDS: Because there are certain Commissioners who would like to have this issue dealt with sooner.

COMMISSIONER YAKI: It will be done before the next meeting or next briefing.

COMMISSIONER HERIOT: Your proposal is to do it when?

COMMISSIONER YAKI: The day before the meeting.

COMMISSIONER GAZIANO: Essentially to have a business meeting.

COMMISSIONER HERIOT: To have a two-day meeting. I'm in favor of a two-day meeting. So it sound like Commissioner Yaki is available for that day. So, yes, I would be happy to be here for an entire meeting on Thursday before the Friday meeting.

CHAIRMAN REYNOLDS: Oh, my God.

COMMISSIONER HERIOT: You'll love it, Gerry.

COMMISSIONER YAKI: I've often proposed that as an alternative.

COMMISSIONER GAZIANO: A call isn't
superior to that?

VICE CHAIR THERNSTROM: No, it really
isn't.

CHAIRMAN REYNOLDS: Is that compromise
acceptable?

VICE CHAIR THERNSTROM: I have got -- no,
I'm busy that afternoon. I'm sorry. I've got a book
event.

CHAIRMAN REYNOLDS: We could do it in the
morning. Let's just do it in the morning.

COMMISSIONER YAKI: The morning of June
11th?

VICE CHAIR THERNSTROM: The 12th.

COMMISSIONER YAKI: The Thursday.

VICE CHAIR THERNSTROM: Oh, Gerry, I've
got a big book event at two o'clock.

CHAIRMAN REYNOLDS: Okay. We'll do it in
the morning.

COMMISSIONER HERIOT: Do it in the
morning. Wait a second.

COMMISSIONER YAKI: The alternative, Abby,
is to vote today.

VICE CHAIR THERNSTROM: No, the
alternative I'm suggesting is to have a business
meeting on the 12th.
CHAIRMAN REYNOLDS: Okay. Let's just continue with the calendar.

COMMISSIONER HERIOT: A book thing and who cares? We'll do it at 9:30.

VICE CHAIR THERNSTROM: I care.

COMMISSIONER HERIOT: Then this can be one of those meetings you miss.

CHAIRMAN REYNOLDS: And you stated earlier that you didn't attend the briefing?

VICE CHAIR THERNSTROM: I didn't attend the briefing.

CHAIRMAN REYNOLDS: And you didn't read the materials.

VICE CHAIR THERNSTROM: Not up to this point, but this looks as if I'm going to have to.

COMMISSIONER HERIOT: Nine, thirty.

COMMISSIONER YAKI: Well, then again, they weren't around for the briefing either.

VICE CHAIR THERNSTROM: It is not possible to combine on the 12th some sort of -- in a business meeting?

CHAIRMAN REYNOLDS: Logistically it's always ugly.

COMMISSIONER YAKI: What if we just confine it to one item, nine to 9:30.
VICE CHAIR THERNSTROM: Good.

CHAIRMAN REYNOLDS: You know, what it's not going to work. We're going to do this all over again. We're going to do this all over again whenever we do it. So I'd prefer not to have this nonsense bleed over into something else.

COMMISSIONER YAKI: I think you can create -- I mean, let's put it this way. It's either over by 9:30 or -- I mean there are ways that --

COMMISSIONER GAZIANO: Or it isn't.

COMMISSIONER YAKI: No. Or it gets kicked over.

COMMISSIONER GAZIANO: I see no reason to postpone the vote today unless some people are willing to compromise on a call or some other time that's acceptable to anyone else. There are more important things that we could add to the briefing on the 12th than this.

CHAIRMAN REYNOLDS: How about a call two weeks from today? How does that sound?

VICE CHAIR THERNSTROM: Well, we're not going to have a call Commissioner Yaki can't make.

COMMISSIONER GAZIANO: Well, can he make it?

CHAIRMAN REYNOLDS: I'm confident that we
can find a date that works for him.

    COMMISSIONER YAKI: Looking at my
calendar. Do we assume the day will be the 29th?

    STAFF DIRECTOR DANNENFELSER: Yes.

    COMMISSIONER YAKI: I'm on an airplane.

    CHAIRMAN REYNOLDS: What about the 28th?

That's my birthday. I'm willing to do it on my

    COMMISSIONER YAKI: No, that's not going
to work.

    COMMISSIONER GAZIANO: Can you tell us a
day that week or the next that would work?

    COMMISSIONER HERIOT: He said the day
before the meeting works. So that's (pause).

    COMMISSIONER YAKI: Yeah, the day before
the meeting works.

    COMMISSIONER GAZIANO: Not for Abby.

    COMMISSIONER HERIOT: She's got a book
thing in the afternoon.

    COMMISSIONER GAZIANO: Not for Abby.

    VICE CHAIR THERNSTROM: I know, but, Gail,
really.

    COMMISSIONER GAZIANO: And I would
prefer --

    COMMISSIONER HERIOT: Come on.

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CHAIRMAN REYNOLDS: Abby, if your morning is available.

VICE CHAIR THERNSTROM: Well, I don't know how available it is at this point. I've got a big event that day.

COMMISSIONER GAZIANO: It also doesn't make much sense to me that Commissioners would have to fly in and stay an extra night in a hotel over something we can resolve on the phone.

COMMISSIONER YAKI: I'm not too sure what airline you fly, but that would require me doing a Red Eye in any case.

COMMISSIONER GAZIANO: Some other Commissioners might decide they need to stay in a hotel.

CHAIRMAN REYNOLDS: Folks, this is crazy.

COMMISSIONER GAZIANO: It is. Are there some times when you can join us on the phone, Commissioner Yaki?

CHAIRMAN REYNOLDS: Do we have rules that prohibit drinking during --

(Laughter.)

COMMISSIONER GAZIANO: Let's vote them down if we do. Let's vote them down if we do.

CHAIRMAN REYNOLDS: Okay, folks. Come on.
now. Work with me.

COMMISSIONER GAZIANO: Commissioner Yaki is there --

COMMISSIONER YAKI: I really don't want to do this by telephonic. I'm with Commissioner Thernstrom. I'd rather do it in person.

COMMISSIONER GAZIANO: Okay. I'd like to vote today then.

COMMISSIONER YAKI: Fine.

COMMISSIONER HERIOT: Yeah.

COMMISSIONER YAKI: Please, do it. I have my E-mail ready to go. So let's go.

CHAIRMAN REYNOLDS: All right. I'm going to regret this. Any other comments from the folks on the phone?

COMMISSIONER KIRSANOW: This is Kirsanow.

It's very difficult for me. I don't know about Commissioner Taylor or Commissioner Melendez, but I really couldn't hear any of the cross-talk in terms of when the vote is going to be or if it was going to be a vote or if we're going to have a teleconference or --

CHAIRMAN REYNOLDS: It looks like the vote is going to happen right now. We were unable, these adults here were unable or refused to compromise.
COMMISSIONER GAZIANO: Well, some of us were quite willing to compromise. There's one individual who insists that it be done in person.

VICE CHAIR THERNSTROM: No, I wanted it to be done in person, too.

CHAIRMAN REYNOLDS: Okay. That's two individuals, mentioning no names.

VICE CHAIR THERNSTROM: I really think this requires --

CHAIRMAN REYNOLDS: Okay, folks.

COMMISSIONER HERIOT: But, Abby, do it on the Thursday before the meeting.

VICE CHAIR THERNSTROM: It really won't work for me, won't.

CHAIRMAN REYNOLDS: Is it necessary -- do you feel strongly enough about this issue where you believe you have to be at the meeting?

COMMISSIONER HERIOT: Call it in.

VICE CHAIR THERNSTROM: Gerry, this is important. It's important procedurally. It's important in terms of precedent.

CHAIRMAN REYNOLDS: Okay. You've answered my question, and the answer is yes.

COMMISSIONER YAKI: May I just make one sort of point of realism. This report has been in the
hopper for how long? Whether we resolve it today, tomorrow, I have no idea why when they talk about compromise, their compromise is that they want to get it resolved right away.

This report has been sitting on the shelf on the rocks for quite some months now. If we can't find time at a business meeting where we can discuss this, again, without prejudice to this report because --

CHAIRMAN REYNOLDS: That's not a bad argument.

COMMISSIONER YAKI: -- you know, I mean, I don't understand.

CHAIRMAN REYNOLDS: No ad hominem attacks.

VICE CHAIR THERNSTROM: You're right.

CHAIRMAN REYNOLDS: Marshalling some good facts.

COMMISSIONER GAZIANO: There were some ad hominem attacks implied in previous statements.

CHAIRMAN REYNOLDS: In previous statements. I'm talking about this one. Folks, how about this? Let's just -- let's do this. Let's do this --

COMMISSIONER GAZIANO: So when are we going to do this? When do you propose to me --
CHAIRMAN REYNOLDS: I propose, despite the difficulty this poses for Vice Chair Thernstrom, the morning before the next meeting. To attempt to accommodate Vice Chair Thernstrom's schedule, if we want to start this at eight o'clock in the morning to insure that she has -

COMMISSIONER GAZIANO: That's what she would prefer.

COMMISSIONER HERIOT: I can do it any time Thursday.

COMMISSIONER YAKI: Point of order.

VICE CHAIR THERNSTROM: No way.

COMMISSIONER YAKI: I think that you perhaps misconstrued my statement. When I say that this -- what I meant by saying that this report has been on the rocks for months, it seems to me if to accommodate my desire to be there in person, for Vice Chair Thernstrom to be there in person, why we even have to set an artificial date of June 11th I think still begs the question.

This report is going nowhere fast. We can direct that nothing be done on it until the time that we actually discuss it so that there's no usage of staff resource. I'm not going to say "waste." Usage of staff resources, but I would say that, Mr. Chair,
at the discretion of the Chair, it be --

CHAIRMAN REYNOLDS: I like this when it comes to me.

COMMISSIONER YAKI: -- that it be put on at one of our regular business meetings for final discussion.

CHAIRMAN REYNOLDS: Okay. How about this?

How about this? You want to give it to me? I'll make everyone unhappy. Let's table this issue, and at the Chair's discretion, he will put it on the agenda at an appropriate time.

COMMISSIONER HERIOT: Well, I have news. You know, it's actually true that if you voted yes on Todd's motion that you could always have done that. You know, that's -- Todd's motion is cease work and you always would have had --

CHAIRMAN REYNOLDS: Yes, but we're putting something --

COMMISSIONER HERIOT: --put something -- that means you're going to vote yes.

VICE CHAIR THERNSTROM: His motion is --

CHAIRMAN REYNOLDS: No, I'm proposing that we table the discussion.

VICE CHAIR THERNSTROM: Yeah.

CHAIRMAN REYNOLDS: And we will haggle
about when the issue is reintroduced at a later date.

    COMMISSIONER YAKI: I second that.

    CHAIRMAN REYNOLDS: All in favor.

    VICE CHAIR THERNSTROM: Aye.

    COMMISSIONER GAZIANO: But I've got to understand if this is a suggestion.

    COMMISSIONER HERIOT: No.

    COMMISSIONER GAZIANO: At least we've got to get beyond one offensive argument that someone certain Commissioners have sandbagged other Commissioners -- no, let me finish, please. Let me finish, please.

    And that's why I brought this to the jurisdictional, mootness and other concerns to the Commission at the very first opportunity that we had on our agenda to raise this. I especially don't want to hear further argument to that regard if I agree to postpone this another two months, that more work has been done on findings or recommendations; that somehow certain Commissioners are sandbagging other Commissioners.

    CHAIRMAN REYNOLDS: That's -- that's --

    COMMISSIONER GAZIANO: Those sort of accusations were inappropriate, and if we're going to waste more time on an issue we should vote on today at
another time, I at least want those sort of arguments off the table.

CHAIRMAN REYNOLDS: Well, we can't control what comes out of each other's mouths. We would hope that folks would conduct themselves in a courteous manner, but we fall short of that on a regular basis.

Now, having said that, I suggested that we table this and revisit it at a later date. What that date is I prefer not to discuss it because I don't think we're going to make much headway.

VICE CHAIR THERNSTROM: Thank you.

CHAIRMAN REYNOLDS: Is that a second?

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: All in favor.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: One. No, no.

VICE CHAIR THERNSTROM: We have Kirsanow and Taylor on the phone, too.

COMMISSIONER KIRSANOW: Again, I had a difficult time hearing.

VICE CHAIR THERNSTROM: We're just tabling this.

CHAIRMAN REYNOLDS: The vote is to table this agenda item.

COMMISSIONER YAKI: To the call of the
Chair, essentially.

CHAIRMAN REYNOLDS: That's it, just to table it?

CHAIRMAN REYNOLDS: Yes.

VICE CHAIR THERNSTROM: And the Chair will decide on when it -- decide on a date for future discussion.

CHAIRMAN REYNOLDS: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Yes.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Oh, yeah.

CHAIRMAN REYNOLDS: An "oh, yeah."

Okay. Please let the record reflect that Commissioner Heriot voted against the motion. Commissioner Gaziano abstained, and the remaining Commissioners voted in the affirmative. The motion passes.

Let's take a ten-minute break.

VICE CHAIR THERNSTROM: Yes, please.

Thank you. That would be great.
(Whereupon, the foregoing matter went off the record at 11:51 a.m. and went back on the record at 12:18 p.m.)

CHAIRMAN REYNOLDS: Okay, folks. We are almost back on the record.

Okay. The next item on the agenda is under Management and Operations.

(Laughter.)

VICE CHAIR THERNSTROM: Gerry, we all feel the same way.

COMMISSIONER HERIOT: Not me. I love it.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: I withdraw my second motion.

COMMISSIONER HERIOT: You can't withdraw. It has already been passed.

COMMISSIONER GAZIANO: If no one wants to talk on her motion, we'll just -- I mean on her point, we'll just move beyond.

CHAIRMAN REYNOLDS: Is this yours?

All right. At this late hour I'd like to move that we table discussion of the 2010 statutory report, also the added motion regarding the civil rights conference, as well as the four motions that were submitted by Commissioner Melendez, with his
consent.

V. PROGRAM AND PLANNING

PRELIMINARY DISCUSSION OF 2010 STATUTORY REPORT TOPIC

V. MANAGEMENT AND OPERATIONS

CHAIRMAN REYNOLDS: Is there a second?

COMMISSIONER GAZIANO: Second.

COMMISSIONER HERIOT: What's on your list again? All of the Management and Operations motions?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER HERIOT: And then what else?

CHAIRMAN REYNOLDS: The 2010 statutory report and the civil rights conference.

VICE CHAIR THERNSTROM: We're postponing all of those.

COMMISSIONER GAZIANO: We still have action on the hate crimes bill.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER GAZIANO: I'd like before I vote, just on the record, Commissioner Melendez, are you on the phone?

COMMISSIONER MELENDEZ: I am.

COMMISSIONER GAZIANO: And do you have any objection to postponing action on your motions?

COMMISSIONER MELENDEZ: (Unintelligible)

today also.
COMMISSIONER GAZIANO: That's fine. I just would have voted your way.

COMMISSIONER MELENDEZ: Well, you can vote my way at the next.

(Laughter.)

CHAIRMAN REYNOLDS: Touche. Okay, folks. All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

(No response.)

CHAIRMAN REYNOLDS: Any abstentions?

COMMISSIONER HERIOT: Yes, I abstain.

CHAIRMAN REYNOLDS: Okay. Let the record reflect that Commissioner Heriot --

COMMISSIONER HERIOT: Let me change my vote. I'm going to change it to no.

CHAIRMAN REYNOLDS: Okay. Let the record reflect that Commissioner Heriot voted against the motion. The remaining --

COMMISSIONER HERIOT: Except insofar as it involved Arlen's motions that he is pressed for time on.

CHAIRMAN REYNOLDS: Okay. We have --

COMMISSIONER HERIOT: I guess that's the whole thing. So I abstain.
COMMISSIONER GAZIANO: She abstains.

Let's move on.

CHAIRMAN REYNOLDS: Okay. We have one abstention from Commissioner Heriot. The remaining Commissioners voted in favor. The motion passes.

So next up we have a letter.

V. PROGRAM PLANNING

DISCUSSION OF SENATE BILL RE HATE CRIMES

CHAIRMAN REYNOLDS: Commissioner Heriot, would you like to take the lead?

COMMISSIONER HERIOT: Yes. I would like to have a letter sent by the Commission to the United States Senate weighing in on the hate crimes bill similar to the one that four of us did for the House on an express basis, you know, between meetings, and I'd like to do the same thing for the Senate, but this time I'd like to have the Commission vote on it.

CHAIRMAN REYNOLDS: I second it.

COMMISSIONER MELENDEZ: I couldn't hear. Could you repeat it, Mr. Chairman?

CHAIRMAN REYNOLDS: Commissioner Heriot -- well, first of all a letter, dated April 29th was sent to various folks in the House regarding hate crimes legislation, and it was signed by Commissioner Heriot, Commissioner Gaziano, and Commissioner Kirschnow and...
myself.

She is proposing sending a similar letter to the folks in the Senate, and so that's the issue that's on the table.

COMMISSIONER HERIOT: Oh, and by the way, I am told that the Washington Times did an editorial today where they didn't quote from the letter that was sent to the House, but they quoted from an article that I wrote and referred to me as a Commissioner. So this is an issue that this press is interested in.

COMMISSIONER GAZIANO: And members of Congress introduced this letter into the record as well in the House debate.

COMMISSIONER HERIOT: So I think having one for the Senate side.

CHAIRMAN REYNOLDS: Comments, other comments? Now, come on now. What is this snapping business?

Commissioner Yaki.

COMMISSIONER YAKI: Yes. I would like to raise some serious issues regarding the April 29th letter that was sent by the Chair, Commissioners Gaziano, Heriot and Kirsanow. A couple of things.

First, it does not explicitly identify, except in a footnote, and even then it doesn't, that
is, it does not even really specify that. The first paragraph says, "We write today to urge you to vote against," blah, blah, blah, blah, blah.

Now, the question is I don't believe that it states with sufficient clarity. It does say on the part of "right of individual members." It does not really state that this is not official, an official Commission position, I think, with sufficient clarity.

Certainly the statement made by Representative Gohmert on the floor made no such distinction. He simply identified it as a letter from the U.S. Commission on Civil Rights because it was on the United States Commission on Civil Rights' stationery.

I don't know exactly what the process is for letters going out on official stationery that are not the official position of the Commission, but I think that's something that needs to be clarified, number one.

Number two is that it has always been, I think, a question of fairness that other Commissioners be notified that a letter signed by Commissioners on legislation, be notified that a letter was, indeed, sent so in the case of wanting to send something to the contrary they have the ability to do so.

To this date I have not yet officially
received a copy of this letter from the Commission or from the other Commissioners who signed this letter. The first I heard about it was from the Judiciary Committee wanting to know why Congressman Gohmert was saying on the floor that he received a letter from the U.S. Commission on Civil Rights. I assured him that according to our policy it could not have been a letter from the Commission. It could only have been from individual Commissioners in their individual capacities, not representing the Commission as a whole. But he was not able to obtain that letter until a little bit later.

And if you look at the addressees, it was not sent to the Chair of House Judiciary or the Subcommittee on Civil Rights, and the Constitution, who is Chairman Nadler.

So I would just like to raise these points from a procedural point of view, and from a substantive point of view, I mean, let's just make this debate very quick. I fundamentally disagree with the idea that federal intervention is not warranted where state remedies are not available or where states will not take action. I thought that was an issue that we resolved in 1957 with the first Civil Rights Act and in the face of clear state inaction and
failure to enforce civil rights laws.

Having federal jurisdiction is often and certainly has been the case and I thought was a well settled principle of civil rights law, is often the backstop available remedy to ensure the enforcement of our civil rights and say that is an end run around state procedures, is going back to language that I think that we dismissed more than 50 years ago. So I will not be supporting this.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: I just want to make sure we have on the record, you know, clearly what the letter did say with regard to whether this is a Commission letter or a letter from four Commissioners. I'm reading the first two sentences of the letter.

"We write to day to urge you to vote against the proposed local law enforcement Hate Crimes Prevention Act, H.R. 1913. Although time does not permit this issue to be presented for formal Commission action, we believe it is important for us to write as individual members to communicate our serious concerns with this legislation."

Then there is a footnote identified as Footnote 1 there -- this is, by the way, a three-page letter -- and the footnote says, "We have not polled
the other four members of this Commission, and this letter should in no way be taken to suggest that they have taken any particular position on the measure."

The reason that we hadn't polled the members was, of course, that this was done very, very quickly. This issue came to the floor of the House I believe it was the very day of the letter, and if we were going to get this out, it had to get out immediately.

I actually would have loved to have brought it before the Commission, and that's why, in fact, I'm bringing it before the Commission right now for the Senate letter. But my understanding is that this letter went out, and I wasn't sure whether it had gotten into anybody's hands before the vote or not. Judging from the fact that it made it into the Congressional Record it must have gotten out. I believe it was sent by E-mail to the rest of the --

COMMISSIONER GAZIANO: Yes, Mr. Chairman.

I understand second hand that one or more of the members of Congress thought it was worthy enough to share with their colleagues, and that's how it was disseminated more broadly, which is not -- which is a hopeful sign, When we write to the leadership of one of the bodies, that they find it important enough to
COMMISSIONER YAKI: Again, I would just raise the issue of why when this letter was sent other members of the Commission were not notified or sent a courtesy copy of it at the time that it went out.

CHAIRMAN REYNOLDS: All right. Time to vote. All in favor please say aye.

COMMISSIONER TAYLOR: What is the motion?

COMMISSIONER GAZIANO: On sending a similar letter to the Senate.

COMMISSIONER HERIOT: Right, okay.

CHAIRMAN REYNOLDS: Do we have a second?

COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: Okay. We had discussion. All in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: Opposed to this. Didn't know enough about it.

CHAIRMAN REYNOLDS: Okay. Kirsanow.

(No response.)

CHAIRMAN REYNOLDS: Taylor.

COMMISSIONER KIRSANOW: I'm sorry. This is Kirsanow. I had it on mute. Yes.

CHAIRMAN REYNOLDS: Okay. Very good.
VICE CHAIR THERNSTROM: Mr. Chairman, I'm abstaining. I haven't really read this letter yet, and I wasn't here for the discussion. I had to make a phone call.

CHAIRMAN REYNOLDS: Okay. I'm sorry. Commissioner Melendez, you?

COMMISSIONER MELENDEZ: I am voting against because I didn't know enough about the issue.

CHAIRMAN REYNOLDS: Okay. Commissioner Yaki.

COMMISSIONER YAKI: I'm voting no. I want that to be noted in the letter that I vote no on the substance of the letter.

CHAIRMAN REYNOLDS: I don't believe you get to dictate the contents. Now, if as a compromise it is decided that --

COMMISSIONER HERIOT: You can send a -- I don't mind.

CHAIRMAN REYNOLDS: I mean, if the folks putting together the letter, if they have no problem --

COMMISSIONER GAZIANO: We'll think about it.

CHAIRMAN REYNOLDS: Okay.

MR. BLACKWOOD: I believe, and I'm doing
it by memory, I think ADR 9-2 spells out the procedures that happens when a letter is sent by the Commission. As I'm told I think it says you just have to show the vote and who voted for and who voted against.

CHAIRMAN REYNOLDS: Okay.

MR. BLACKWOOD: Look at AR 9--

COMMISSIONER HERIOT: That's fine. That's fine.

CHAIRMAN REYNOLDS: Okay. So the issue may be covered. Okay. Let's see. We have --

COMMISSIONER HERIOT: Commissioner Taylor's vote?

CHAIRMAN REYNOLDS: He did not respond. Commissioner Taylor.

COMMISSIONER TAYLOR: I'm back. I was down the hall.

CHAIRMAN REYNOLDS: Okay. Just nod. How do you vote?

COMMISSIONER TAYLOR: What's the motion?

CHAIRMAN REYNOLDS: A motion to send a letter similar to the -- well, you're aware of the letter -- there's a letter sent on April 29th to the House regarding hate crimes legislation. The motion is to send a similar letter to the Senate.
COMMISSIONER TAYLOR: Oh, yes.

CHAIRMAN REYNOLDS: Okay, all right. Let the record reflect that --

COMMISSIONER YAKI: Point of order. Are we going to be receiving a courtesy copy before or at the same time that you send it on or are we going to have to wait three weeks for it to appear from someone else?

COMMISSIONER GAZIANO: I'm sure a letter from the Commission should be sent.

CHAIRMAN REYNOLDS: Do we want to make them wait three weeks?

COMMISSIONER GAZIANO: I get to misbehave, too, don't I?

CHAIRMAN REYNOLDS: We will send a copy shortly after the letter goes out, and it won't be three weeks.

COMMISSIONER YAKI: I would like a copy sent the same day.

CHAIRMAN REYNOLDS: Sure.

COMMISSIONER HERIOT: Fine.

COMMISSIONER YAKI: By E-mail.

CHAIRMAN REYNOLDS: Hand delivery?

COMMISSIONER YAKI: By E-mail.

CHAIRMAN REYNOLDS: E-mail? Anybody have
a problem? That's fine.

COMMISSIONER YAKI: Thank you.
CHAIRMAN REYNOLDS: Okay. Just to --
COMMISSIONER GAZIANO: How did you vote, Mr. Chairman?
CHAIRMAN REYNOLDS: I voted for it. Let the record reflect that Vice Chair Thernstrom abstained. Commissioners Melendez and Yaki voted against the motion. The remaining Commissioners voted for it. The motion passes.

Next up is the approval of the rechartering package for the Connecticut State Advisory Committee.

VI. STATE ADVISORY COMMITTEE ISSUES

CONNECTICUT SAC

CHAIRMAN REYNOLDS: Fourteen of the 15 previously appointed members were eligible for reappointment consistent with AI 5-9, Section 5. These 14 were asked about their interest in reappointment. Six previously appointed members are being recommended for reappointment. Of the recommended new appointees, Richard Wilson is recommended as chair.

Recommended advisory committee members were selected in compliance with the State Advisory
Committee membership selection guideline, following the Lean 6 Sigma process approved by Commissioners in January 2008.

Commission staff reached out to a wide variety of organizations and individuals. The Staff Director detailed this outreach in a May 7th, 2009 memo to Commissioners.

Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: Thank you.

I'm sorry. Here are the individuals with the prize, the Connecticut State Advisory Committee:

Richard Wilson
William Alpert
LeRoy Bailey
Jay Bergman
Dove Burns
Justin Clark
Lawrence DeNardis
Kathleen Greider
Gerald Gunderson
Elizabeth Haynes
Anne Hendershott
Brian Langdon
And Ingrid Moll
Oh, and Werner --

STAFF DIRECTOR DANNENFELSER: Oyanadel.

CHAIRMAN REYNOLDS: --Oyanadel. Thank you.

Edith Pestana

David Rynolds

Edward Salabia

And Margaret Young.

Furthermore, the Commission would appoint Richard Wilson as Chair of the rechartered State Advisory Committee. These members will serve as uncompensated government employees.

Discussion?

COMMISSIONER MELENDEZ: Question from Melendez.

Were there some people that could have been reappointed that were not that were interested that had experience?

CHAIRMAN REYNOLDS: Mr. Staff Director?

STAFF DIRECTOR DANNENFELSER: All of the people who were eligible for reappointment were invited, and they either declined or did not respond to the inquiry as to whether they were interested in being reappointed.

CHAIRMAN REYNOLDS: Commissioner Yaki.
COMMISSIONER YAKI: Just to follow up on that, so I understand there were 14 members eligible. Six were reappointed. So the other eight, they were all subject to the same outreach, all 14, right? In other words, if someone didn't respond right away, was there a follow-up call made or no for the other eight? I'm just curious.

STAFF DIRECTOR DANNENFELSER: There was follow-up to the individuals.

COMMISSIONER YAKI: Okay. That's all I needed to know. Thank you.

CHAIRMAN REYNOLDS: All in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

COMMISSIONER YAKI: I abstain.

COMMISSIONER MELENDEZ: Melendez abstains.

COMMISSIONER KIRSANOW: Kirsanow abstains.

VICE CHAIR THERNSTROM: Thernstrom abstains.

CHAIRMAN REYNOLDS: Okay. Commissioner Taylor?

COMMISSIONER TAYLOR: I think I've got to abstain.

(Laughter.)
CHAIRMAN REYNOLDS: Okay. Are you going to act on that urge?

COMMISSIONER TAYLOR: Yeah, I generally act on most of my urges.

CHAIRMAN REYNOLDS: I'll call you after the meeting.

(Laughter.)

CHAIRMAN REYNOLDS: Okay. Commissioner Taylor, how do you vote?

COMMISSIONER TAYLOR: Abstain.

CHAIRMAN REYNOLDS: Okay. So we have three votes in the affirmative. Commissioner Heriot, Commissioner Gaziano, and the Chair vote in the affirmative. The remaining Commissioners abstain. The vote passes.

We are done, folks.

VII. Adjourn

CHAIRMAN REYNOLDS: Folks, we're done, and everyone, every last one of you, I'm extending an invitation to join me down the block.

(Whereupon, at 12:38 p.m., the meeting was concluded.)