The meeting convened in Room 540 at 624 Ninth Street, N.W., Washington, D.C. at 9:30 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman
ABIGAIL THERNSTROM, Vice Chairman
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner (via telephone)
ARLAN D. MELENDEZ, Commissioner
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

STAFF PRESENT:

HYGIN U. AGUZIE
DAVID BLACKWOOD, General Counsel
CHRISTOPHER BYRNES, Chief, Programs Coordination Unit
MARGARET BUTLER
DEBRA CARR, Associate Deputy Staff Director
CHRISTINA CATAPANAG (Intern)
DEMITRIA DEAS
PAMELA A. DUNSTON, Chief, Admin. Services and Clearinghouse Division
LATRICE FOSHEE
BRITNEY GALLOWAY, (Intern)
MICHAEL JOHNSON, (Intern)
MEGAN KEMP, (Intern)
MONICA KIBLER
ROBERT LERNER, Assistant Staff Director for OCRE
DORIS MANSFIELD, (Intern)
TINALOUISE MARTIN, Director of Management
EMMA MONROIG, Solicitor
LENORE OSTROWSKY
ANDREW SCHWARTZ (Intern)
STAFF PRESENT CONTINUED:

JAMAL SOLTObAEVA, (Intern)
KIMBERLY TOLHURST
RASHAwnA WILLSIAMS, (Intern)
AUDREY Wright

COMMISSIONER ASSISTANTS PRESENT:

TIm FAY
DOMINIQUE LUDVIGSON
RICHARD SCHMECHEL
KIMBERLY SCHULD
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PROCEEDINGS

(9:33 a.m.)

CHAIRMAN REYNOLDS: The meeting will come to order.

This is a meeting of the U.S. Commission on Civil Rights on July 11, 2008. The meeting is being held at 624 Ninth Street, N.W., Room 540, Washington, D.C.

The Commissioners present are Vice Chair Thernstrom, Commissioners Yaki, Melendez, Heriot --

COMMISSIONER YAKI: Here -- oh, you weren't calling roll. Sorry.

CHAIRMAN REYNOLDS: -- Gaziano, who are here physically, and Commissioner Kirsanow, who is participating by phone.

Pete, are you there?

COMMISSIONER KIRSANOW: Here.

VICE CHAIR THERNSTROM: Hey, Pete.

Morning.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: Was he there?

CHAIRMAN REYNOLDS: Yes. Pete?

COMMISSIONER KIRSANOW: Yes.

COMMISSIONER YAKI: Wake up, Pete. Wake up.
CHAIRMAN REYNOLDS: Okay. The first item on the agenda is the approval of the agenda.

I. APPROVAL OF AGENDA

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

COMMISSIONER HERIOT: Actually I have a motion to amend that agenda.

CHAIRMAN REYNOLDS: Okay. We have a motion to approve the agenda -- I'm sorry -- to amend the agenda. I second it.

COMMISSIONER HERIOT: I need to say what the motion is first.

VICE CHAIR THERNSTROM: Yes, Gerry.

COMMISSIONER HERIOT: You obviously want to get out of here really quickly.

CHAIRMAN REYNOLDS: This is Todd's doing. Okay.

COMMISSIONER HERIOT: I move that we amend the agenda to include a discussion of the ABA documents in the possession of the Department of Education in connection with its pending renewal of the ABA's accreditation authority.

I would like at the appropriate time, if we amend the agenda, to make a motion that we would have access to those documents. So I move to amend
the agenda to include an item I think as a substitute
or, rather, before Item 9, Future Agenda Items; that
we discuss those ABA documents with an eye towards a
letter to the Department of Education seeking access
to those documents.

CHAIRMAN REYNOLDS: Okay. Second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor please
say aye.

(Chorus of ayes.)

VICE CHAIR THERNSTROM: Hold on a second.

I'm looking.

COMMISSIONER MELENDEZ: I have another
item to add to the agenda. Would I do that after this
motion --

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: -- or before?

CHAIRMAN REYNOLDS: After.

COMMISSIONER HERIOT: Did we have a chance
for discussion there?

CHAIRMAN REYNOLDS: Okay. I thought you
wanted to discuss --

COMMISSIONER MELENDEZ: No, no.
COMMISSIONER HERIOT: Okay. If nobody wants to discuss it, I'm happy.

COMMISSIONER YAKI: I do.

COMMISSIONER GAZIANO: Right now we're just discussing whether to add it to our agenda, right?

COMMISSIONER HERIOT: Yes, that's right.

COMMISSIONER YAKI: Well, that's what I was going to address. What is your urgency of the timing of putting it on the agenda at this time?

CHAIRMAN REYNOLDS: Why are you looking at me?

COMMISSIONER YAKI: Because you're the Chair and you always look at the Chair.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: The rules of protocol are that I look at the Chair, and then the Chair --

CHAIRMAN REYNOLDS: Okay. Now the Chair is going to look at Gail.

COMMISSIONER YAKI: Exactly.

COMMISSIONER HERIOT: Because these documents are there at the Department of Education and I have time to look at them in the next month or so, and so I would like to be able to do that sooner rather than later.
The ultimate action that the Commission might take would be to add a briefing report or perhaps even a statutory report in the future, but I think it's important to look at the documents now, and since it's fairly noncontroversial. Looking at documents is not a big deal.

CHAIRMAN REYNOLDS: Any other discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Those Commissioners who voted against the motion?

COMMISSIONER MELENDEZ: Abstain. I just don't know enough about it.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: This is just to put it on the agenda.

CHAIRMAN REYNOLDS: And, Michael, you're voting?

COMMISSIONER YAKI: Voting no.

CHAIRMAN REYNOLDS: Okay. All right. So let the record reflect that Commissioner Yaki votes against the motion.

COMMISSIONER YAKI: Which way does Pete
vote?

COMMISSIONER KIRSANOW: Could I?

COMMISSIONER YAKI: Oh, good, good.

CHAIRMAN REYNOLDS: Commissioner Melendez abstains. The remaining Commissioners vote in favor of the motion. So it passes.

COMMISSIONER GAZIANO: Except for Commissioner Taylor who is not present.

CHAIRMAN REYNOLDS: Well, yes.

COMMISSIONER GAZIANO: Okay.

VICE CHAIRPERSON THERNSTROM: That just means it's on the agenda.

COMMISSIONER HERIOT: Okay.

VICE CHAIR THERNSTROM: We will get to the substance, I assume.

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Where was I?

COMMISSIONER YAKI: You were still on the agenda.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: And you were going to recognize Commissioner Melendez.

COMMISSIONER GAZIANO: Commissioner Melendez has a motion.

CHAIRMAN REYNOLDS: Commissioner Melendez,
would you like to make a motion?

COMMISSIONER MELENDEZ: Yes. I have a motion to add to the agenda an issue that we had talked about before, reevaluating the agency AI on the order of precedence now that we have a new Staff Director and that discussion as to who is in charge should the Staff Director not be available, and I think that discussion needs to be decided or looked at again, based on the fact that Debra Carr's position wasn't even created at the time that last AI was actually written.

So it has to do with who supervises whom and who has authority to do so. So I think we need to discuss that.

CHAIRMAN REYNOLDS: Okay, and where on the agenda would you like it to go?

COMMISSIONER MELENDEZ: It doesn't matter where. Wherever you think it might fit as the Chair would be fine.

CHAIRMAN REYNOLDS: Okay. If that's the case, then I'll just put it right after the discussion on the ABA.

VICE CHAIR THERNSTROM: It's really Management and Operations, isn't it, Gerry?

CHAIRMAN REYNOLDS: It is. Okay. Okay.
Any other motions to amend the agenda?

COMMISSIONER GAZIANO: Unless the Chair is going to do so, I'd move to amend Section 6 of the agenda to include a discussion of FY 2009 program planning.

CHAIRMAN REYNOLDS: Okay. Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER HERIOT: What do we do with --

COMMISSIONER GAZIANO: You didn't vote on the Melendez motion.

CHAIRMAN REYNOLDS: Okay, okay. Let's slow down here. We have to vote on Commissioner Melendez's motion. All in favor of the motion please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any votes in the negative?

(No response.)

CHAIRMAN REYNOLDS: Any abstentions?

(No response.)

CHAIRMAN REYNOLDS: The motion passes unanimously. Okay.
COMMISSIONER GAZIANO: I renew my motion
to add as the first item to VI Program Planning for FY
2009.

CHAIRMAN REYNOLDS: And is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

COMMISSIONER YAKI: Nope.

CHAIRMAN REYNOLDS: Any abstentions?

COMMISSIONER MELENDEZ: One.

CHAIRMAN REYNOLDS: Let the record reflect that Commissioner Melendez abstained.

Pete, were you on this vote?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Okay. Commissioner Melendez abstained. The remaining Commissioners voted in the affirmative. So the motion passes, and it will be discussed as the first item under Program Planning.

COMMISSIONER GAZIANO: And the item that Commissioner Melendez added, is that going to be under Management and Operations or Other Business?
CHAIRMAN REYNOLDS: Management and Operations after the discussion of the 2009 budget submission to Congress.

Okay. All right. Now it's time to vote on the agenda as amended. Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor of voting for the agenda as amended, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

COMMISSIONER MELENDEZ: Abstain.

COMMISSIONER YAKI: Abstain.

COMMISSIONER MELENDEZ: My reason for abstaining is that I think we're still not getting some of the items out in a timely manner. We're supposed to get them a week prior to being here at this meeting, and I think things are still coming in after the fact. They're not giving us enough time to really look at those thoroughly. So that's the reason for my abstaining on this.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: And I abstain because I didn't get my agenda materials.
CHAIRMAN REYNOLDS: At all?

COMMISSIONER YAKI: No, the hard binder that was supposedly sent I never got.

COMMISSIONER MELENDEZ: This one?

CHAIRMAN REYNOLDS: All right.

Commissioners Melendez and Yaki abstain. The remaining Commissioners voted in favor of the agenda as amended. The motion is approved.

Next up is the approval of the minutes of the June 6, 2008 meeting.

II. APPROVAL OF MINUTES OF JUNE 6, 2006 MEETING

CHAIRMAN REYNOLDS: Is there a motion to approve the minutes, please?

COMMISSIONER GAZIANO: So moved.

CHAIRMAN REYNOLDS: Second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

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

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

(No response.)

CHAIRMAN REYNOLDS: Any abstentions?

(No response.)
CHAIRMAN REYNOLDS: Pete, were you?

COMMISSIONER KIRSANOW: I said aye.

CHAIRMAN REYNOLDS: Sorry. We have difficulty hearing you.

COMMISSIONER YAKI: Point of order.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER YAKI: Could someone please get me an agenda?

CHAIRMAN REYNOLDS: Is there a spare book floating around that Mr. Yaki can use?

COMMISSIONER YAKI: Thank you.

CHAIRMAN REYNOLDS: Okay. Are you missing any other materials, Commissioner Yaki?

COMMISSIONER YAKI: Oh, I'm missing the binder.

CHAIRMAN REYNOLDS: Is there a spare binder?

COMMISSIONER YAKI: Maybe yours, Mr. Chairman, with all of your notes in it would be fine. It will help me go along a lot faster.

CHAIRMAN REYNOLDS: Okay. Staff Director's report.

III. STAFF DIRECTOR'S REPORT

CHAIRMAN REYNOLDS: At this point I turn it over to the Staff Director.
STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman.

I want to update the Commissioners on some developments since the last Commission meeting. On June 19th, the Senate Appropriations Committee adopted a committee report that included an 8.8 million FY 2009 budget for the Commission, and similarly the House Appropriations Committee adopted a 8.8 million FY 2009 budget for the agency on June 25th.

In the area of employment law, staff continue to monitor an EEO appeal and participated in a mediation regarding a separate EEO matter. Our Office of General Counsel also began responding to a claim filed against the Commission with the Merit Systems Protection Board.

GAO has not yet issued a ruling on a protest filed in response to the agency's award of a contract for a procurement specialist. We believe that ruling may come in August, and as a result of the appeal, no work has begun on the contract.

Regarding complaints processing, between May 19th and June 20th, the Office of Civil Rights Evaluation received and processed 266 complaints.

The Commissioners received two briefing reports for review since the last Commission meeting.
There were a briefing report on education effectiveness at historically black colleges and universities and the report on deliberate creation of racially identifiable school districts in Omaha, Nebraska, and the Commissioners were asked to submit comments on the HBCU report by July 18th.

The Commissioners also received the second draft of the FY 2008 statutory enforcement report enforcing prohibitions of religious discrimination in prisons and comments on a statutory report are also requested by July 18th.

The Commission's auditors, Walker & Company, began work on the FY 2008 annual financial audit following a kickoff meeting that was held in late June.

And regarding the regions, they are involved in planning SAC meetings in the month of July the Connecticut, District of Columbia, Kansas, North Carolina and Vermont State Advisory Committees are all planning to hold meetings.

And last month somebody may recall I introduced a number of interns who are helping the agency this summer. We've had a few more come on board, and I wanted to introduce them as well if they're in the audience, and I believe in most cases
Two interns are now working with the Office of Civil Rights Evaluation, Christina Catapang, a junior at Georgetown University, and Jamal Soltobaeva, a senior at American University.

CHAIRMAN REYNOLDS: Welcome aboard.

STAFF DIRECTOR DANNENFELSER: Welcome. Thank you.

And the regional offices are also benefiting from the help of interns this summer. The Eastern Regional Office welcomed Rashawna Williams, who is part of D.C. Mayor Fenty's Summer Youth Program. Rashawna will be entering the tenth grade at Caesar Chavez Public Charter School for Public Policy, and is she in the room?

(No response.)

STAFF DIRECTOR DANNENFELSER: Don't see her.

And the Southern Regional Office has four interns helping out this summer. They are Michael Johnson, a student at Morehouse College; Doris Mansfield, a student at Georgia State University; Britney Galloway, a student at Spellman College; and Megan Kemp, a student at Clark Atlanta University. And we're very pleased to have the interns on board.
and appreciate the valuable help they'll be providing us this summer.

That completes my report.

CHAIRMAN REYNOLDS: Okay. The Staff Director has requested that the next portion of the meeting be closed pursuant to Commission regulations implementing the Sunshine Act.

IV. MOTION FOR EXECUTIVE SESSION

CHAIRMAN REYNOLDS: Will the Solicitor and General Counsel please certify that the meeting can be closed pursuant to the Commission regulations?

MR. BLACKWOOD: We certify.

MS. MONROIG: Certify.

CHAIRMAN REYNOLDS: Okay. I would like to make --

COMMISSIONER MELENDEZ: I would ask the question as to what the subject is that we're discussing in closed session because we don't even know that yet.

CHAIRMAN REYNOLDS: I'm sorry. It's a personnel matter.

COMMISSIONER MELENDEZ: Okay. So we won't know until we get into the closed session?

VICE CHAIR THERNSTROM: No, we can't know.

COMMISSIONER MELENDEZ: All right.

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CHAIRMAN REYNOLDS: Okay. I'd like to move to close this meeting pursuant to Exemptions 2, 6 and 10 of the closed meeting procedures for Commission meetings.

Furthermore, this motion will authorize the Staff Director to place in a location accessible to the public within one working day a public vote to close the meeting reflecting an explanation of the decision to close the meeting and a list of all persons that attend the meeting.

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

(No response.)

CHAIRMAN REYNOLDS: Any abstentions?

(No response.)

CHAIRMAN REYNOLDS: The motion passes unanimously.

At this point I would ask everyone with the exception of the Commissioners and our lawyers to
leave the room, and of course -- okay. Well, the vote was unanimous. So Commissioners Heriot, Gaziano, Reynolds, Thernstrom, Melendez, Yaki, and Kirsanow voted in favor to close the meeting.

At this point I would ask all other individuals with the exception --

MR. BLACKWOOD: Kim Tolhurst also of the OGC will stay.

CHAIRMAN REYNOLDS: I'm sorry?

MR. BLACKWOOD: Kim Tolhurst of OGC will also be --

CHAIRMAN REYNOLDS: And she's a lawyer?

MR. BLACKWOOD: Yes.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER YAKI: Point of order.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER YAKI: Is there a reason why we need to do it now rather than at the end of the meeting, which is traditionally when closed sessions are usually held?

VICE CHAIR THERNSTROM: We've got everybody here now.

COMMISSIONER HERIOT: Yes, it's too much work to --

VICE CHAIR THERNSTROM: They may
disappear.

COMMISSIONER HERIOT: We approved the agenda. It's too late to shuffle it.

COMMISSIONER YAKI: Well, you can also reopen the agenda to amendment.

CHAIRMAN REYNOLDS: I think that we can have it now or we could have it at the end, and we chose to do it at this point. Again, we have people from time to time who leave early, and so since this is a matter of some importance, the decision was made to put it sooner rather than later.

I recognize that it's disruptive, and it screws up the flow of the discussion, but I'd rather do it now while we have everyone here.

STAFF DIRECTOR DANNENFELSER: There was also concern expressed about whether there was any potential budgetary impact for FY 2009 relating to this matter, and I think that was the reason that it was chosen here, but it's up to the Commissioners.

VICE CHAIR THERNSTROM: Well, we already voted on the agenda.

COMMISSIONER HERIOT: We approved it. Let's just not waste time.

STAFF DIRECTOR DANNENFELSER: He's asking for reconsideration.
VICE CHAIR THERNSTROM: No, I understand.

CHAIRMAN REYNOLDS: Okay. Additional comments or questions?

(No response.)

CHAIRMAN REYNOLDS: Okay, and I should have also listed Staff Director Martin Dannenfelser, the General Counsel, David Blackwood --

COMMISSIONER YAKI: How can you vote on an agenda you don't have a copy of?

CHAIRMAN REYNOLDS: -- Attorney Advisor, Kara Silverstein, along with the Solicitor, everyone in our group will participate.

MR. BLACKWOOD: And Kim Tolhurst.

CHAIRMAN REYNOLDS: And Kim Tolhurst, will participate in the closed session.

So at this point will everyone leave the room and we'll reconvene at this session.

(Whereupon, from 9:50 a.m. to 10:23 a.m., the meeting was recessed for an Executive session.)

CHAIRMAN REYNOLDS: Okay. Let's go back on the record.

Okay. Earlier this week the Staff Director circulated a memorandum regarding the Commission's status of funds for 2008. That memo explained that as of May 31st of 2008 the Commission
has a projected surplus and outlined some ways that
the Commission can help alleviate pressure on its '09
budget by paying for some '09 obligations with '08
funds to the extent allowed by federal procurement
regulations.

V. MANAGEMENT AND OPERATIONS:

STATUS OF FY 2008 BUDGET

CHAIRMAN REYNOLDS: With that I now turn
to the Staff Director to discuss this issue and
respond to any questions.

STAFF DIRECTOR DANNENFELSER: Thank you,
Mr. Chairman.

As noted in the memo that went out earlier
in the week, the latest status of funds report from
GSA indicated a year to date surplus of $548,589 as of
May 31st, 2008, and I delineated in this memo some
explanation as to why that was the case. Most of it
relates to personnel issues in terms of hires that
were not made during the course of the year, late
hires, gaps in hiring where the Staff Director had
left. There was a four-month gap. There were some
other explanations relating to lower lump sum payments
and payment of unemployment benefits, lower spending
on printing and reproduction, and so on.

And then I did explain that we are in the
process of shifting some obligations, some funds that we feel like previously would be FY 2009 obligations for some new items, particularly Smart Cards, the new security ID for employees, and several other things, and we are able to move the cost or a substantial part of the cost for those Smart Cards into FY 2008 to take advantage of the fact that we do have this money now and then to hopefully alleviate some pressure on the 2009 budget.

But in spite of moving what we can right now, we've identified a little more that $117,000 worth of expenditures that we can pay for in 2008 instead of 2009. We're still projecting almost $260,000 of new obligations going into 2009, and we also have to account for the strong possibility that we'll be operating under a continuing resolution at least at the beginning of the fiscal year.

So that while we are budgeting for 8.8 million, we may be looking at 8,460,000 or some other number because Congress hasn't acted yet completely, just at the committee level in the House and Senate. So we can't assume necessarily that what's happened at the committee is necessarily going to happen on the floor of the House and Senate, and then there's the President potentially vetoing the bills that this

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funding is attached to, which are both over the President's budget request. So there is strong reason to believe that they might be vetoed.

So I just wanted to lay some of these things out to give some explanation as to where we are, but also what we have to look at in the future, the immediate future of FY 2009.

So I'd be happy to answer any questions that Commissioners might have.

CHAIRMAN REYNOLDS: Questions?

COMMISSIONER MELENDEZ: Yes. How much of a hand does the Commission have in the surplus, the 540,000 or 588,000? I know that in the last couple -- didn't we have a surplus last year also?

STAFF DIRECTOR DANNENFELSER: Yes, we did.

COMMISSIONER MELENDEZ: And what makes us think that this year we wouldn't have a surplus also? And if we have a track record of always having surpluses, wouldn't it tend to push us in a direction that it might be less risky to hire somebody like an HR Director or somebody that's a vital position in the agency, especially based on a track record of surpluses the last two years, and who knows? We probably could have one this year based on whatever. That whatever an HR Director or somebody like that
would come on board for, we'd still have 300,000 or 400,000 if we would have done it two years ago to bring on an HR person. I brought that up a few years ago as for the need for that position.

And then the other thing is I know that we still haven't really addressed the regions. I know that in the western region, which are vital to at least some of us on the West Coast, you know, in the States of Hawaii and Alaska and California and Nevada; we still in that office have to be able to function in a manner that's really going to give some input, SAC selections and all of these different things to really help us.

And I think that, you know, it's not really happening, and the only way we can do that is to really get a qualified person or a regional director as we had before to really kind of take care of -- at least in the West. I'm not sure about the other regions. Since I come from the West, I'd like to see that addressed.

But it just seems like we need to try to get some. In this financial budget, I know that even in Congress, I think, on some of the committees, they noted that, you know, we should try to address the outreach and the use of the SACs and the use of the
regional offices.

So this budget has to in some way tie in to try to accomplish a small degree of that goal, I would think. So that's just my comments on this budget.

CHAIRMAN REYNOLDS: Okay. Well, on your comments, do you expect a response?

COMMISSIONER MELENDEZ: Well, yes. I'm asking why can't we do that?

CHAIRMAN REYNOLDS: Okay.

STAFF DIRECTOR DANNENFELSER: All right.

Thank you, sir.

Regarding the SACs, we are continuing to try to bring more of the SACs on line, and there has been progress in that area, and we will continue to strive to get up to full force with the SACs. Next year, based on the projections that we have from the regional offices, we're projecting between 60 and 70 meetings on behalf of the SACs nationwide.

So, again, that is something that we want to continue to improve on and help the SACs do more in that area.

Regarding should we assume that because we've had these surpluses for a few years now that we can have the assumption that we'll have them again
next year, our goal here has been to really scrutinize why that has happened and then to address some of that. There was probably some higher expectations in some areas in terms of the budget, and we've reduced those expectations both in the unemployment and lump sum payments. We've reduced that considerably. The printing, some of the travel, we've reduced the projections in those areas.

We do have in the budget a hire for a new employee in the Office of Civil Rights Evaluation. So our hope is that we could go forward and do that, but that, again, is based on an $8.8 million budget, and we did have some savings during the course of the year. We switched to Westlaw, for instance. We saved $50,000.

We are looking at some administrative savings that we might make. There could be retirements during the year that we don't know about that could, you know, have the effect of reducing the budget.

But the thing is looking at it now, we can't assume things that might happen. We have to go in based on, you know, what will happen unless something changes, and that if things change during the course of the year, we may be able to make some
adjustments that perhaps we don't hire somebody at the beginning of the year. If Congress then goes beyond a continuing resolution and actually gives us an $8.8 million budget, if during those intervening months we are able to identify some additional savings, then we may be in a position to hire in the early part of the calendar year of 2009 perhaps.

But right now it would seem prudent not to assume that savings are going to be there that we don't know will be there.

COMMISSIONER MELENDEZ: Okay. The other question had to do with the finance because I know that at the time that we had a large amount of money back for the federal government, it started then that we really have to have somebody in charge of finance, a director that really could make sure that doesn't happen again, and I guess that would still fall in line with surpluses.

The real question is we don't know that we're going to have surpluses until the very end of the year, like now or close to September 30th, or are we saying that we should have a Finance Director or somebody that's an important position that tells us that we have billed -- over a period of time they could tell us at the quarter marks, first quarter,
second quarter, and then the Commission would basically -- you tell us that we have 250,000 built up instead of 500,000 a month before the end of the fiscal year, and we could make some adjustments to hire or you could let us know with the help of a Finance Director. You're going to reallocate funds with the approval of the Commission rather than waiting until the very end and telling us we have 500,000 two years in a row.

That's my reason for asking about a Finance Director.

CHAIRMAN REYNOLDS: Let me jump in and provide a partial response. I mean, our spending is not levelized over the course of the year. It's a little lumpy, but I do agree that we do need to get better data. We need to get timely data, and it's not clear to me that the system that we currently have in place is a good tool for providing us with timely, accurate information.

I know in the past we have had several years where we have turned significant sums back to the Treasury. It's always painful, and in one case we had a Budget Director who was on board when that happened and, in fact, I believe of the three years that was the largest amount.
We just need to improve and refine the systems that we have in place. So at least personally I need a higher level of comfort in terms of the numbers that I'm looking at. I need to get a better sense of what the assumptions are.

Just to throw some of the Commissioners under the bus, including myself, for example, our numbers, not all of us, including myself, will submit time sheets in a timely fashion, and that distorts the numbers that we review, and if we have an item that we know that we're going to purchase at the end of the year and it's a significant sum of money, if you look in April -- there's a smile.

COMMISSIONER YAKI: I was knocking on this table when you said purchasing something that's a significant sum of money.

CHAIRMAN REYNOLDS: Ah, I see.

In any event, the bottom line is that I agree that the tools that we have in terms of monitoring our expenditures needs to be improved. I think that we need to also, just to check ourselves, look at what our budget is and what our expenditures are at the end of the year and to see what the variance is and to ask some questions.

For example, I saw some categories where
there was a significant sum left at the end of the year, and did we change our mind or was the budget projection on the front end too high?

I think that we need to take a look at our process, and do we need to hire more people? Yes, but we need to make sure. We need to be comfortable that we have reoccurring funds to pay the salaries and benefits going forward. One time savings can't be used to hire someone because those savings, we can't depend on them.

STAFF DIRECTOR DANNENFELSER: Well, I mean, the one thing we are doing right now in terms of hiring, we can do temporary hiring where we have these surplus funds, but we're not obligating ourselves into the new fiscal year.

We did have in the budget a position for an other person in OCRE. We did have in the budget a position for a staff assistant in the Office of General Counsel. What we're doing now is getting temporary people, one person in each of those departments, to help them with their backlog, to help them be able to, you know, complete some of the work that hasn't been completed up till now.

So those were things that we had budgeted for, but we held off on making those hires, but what
we can do at least in the last few months of the year, we can hire temporary people to help them take care of those duties.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom, then Commissioner Yaki.

VICE CHAIR THERNSTROM: Well, I'm in total agreement with what both the Chair and Commissioner Yaki said, that we can't operate with kind of surprises late in the fiscal year. Well, look what we've got, you know, this money that we've got. We really need ongoing information here.

Now, two things. One, on the question of hiring temporary staff, I'm troubled by that only because we can't possibly get the same quality of person when we're just picking up some temporary people for really doing quite vital work. Am I wrong on that?

CHAIRMAN REYNOLDS: Well, I think it depends. Well, I don't think that we should hire temporary personnel if they're not going to add value, and so during the interview process if we conclude that these individuals don't have the skill set that we require or that skill set doesn't meet our minimum requirements, then we shouldn't make the hire.

VICE CHAIRPERSON THERNSTROM: Right, but I
mean, the question is we need to fill out the OCRE staff. I mean, all other things being equal, that person should be of high quality. That is extremely often very intellectually complicated, complex work that needs a very skilled --

STAFF DIRECTOR DANNENFELSER: In a case like this, we're not necessarily getting another social scientist. We're looking at trying to help them with their writing and editing.

VICE CHAIR THERNSTROM: Okay.

STAFF DIRECTOR DANNENFELSER: In the case of the Office of General Counsel, the General Counsel has said that the attorneys in that office are spending a great deal of time doing administrative work --

VICE CHAIR THERNSTROM: I see. Okay.

STAFF DIRECTOR DANNENFELSER: -- that if they had some administrative support --

VICE CHAIR THERNSTROM: That's helpful.

STAFF DIRECTOR DANNENFELSER: -- that would free up those attorneys to spend more time doing that. So that's part of our objective there.

VICE CHAIR THERNSTROM: I see. Okay.

CHAIRMAN REYNOLDS: Commissioner Yaki.

VICE CHAIR THERNSTROM: No, no, no. Just
wait a minute. Last question.

I am very sympathetic to what Commissioners Yaki and Melendez have repeatedly expressed concern about, and that is the Western Regional Director, and I just wonder, you know, what our kind of priorities -- we discussed this problem a number of times, and I think we do need to talk once again about our priorities and the importance of them in having --

CHAIRMAN REYNOLDS: Well, to respond to that, how about, I mean, in terms of our needs here at the agency, and that includes our regional office? I think what we need to do is have a list in front of us --

VICE CHAIR THERNSTROM: Exactly.

CHAIRMAN REYNOLDS: -- and then we're going to have to make some choices.

VICE CHAIR THERNSTROM: Exactly. That's what I was about to say. We need to make some priorities.

COMMISSIONER GAZIANO: What would be -- I'm sorry. Out of turn.

COMMISSIONER YAKI: Thank you, Mr. Chair, and thank you, Commissioner Gaziano.

With regard to the last issue brought up,
and I know that this sounds like a broken record that I continue to play time and time again, but to this day I still do not understand the staffing decision made by the previous Staff Director, not Mr. Lerner, but Mr. Marcus, in having a Southern Regional Director and then tasking out someone from the Office of the Staff Director down there, Mr. Horne, as well. So we have two highly paid positions in the Southern Region, and it was done with no explanation.

I asked repeatedly to the Staff Director why this was being done, and he kept on telling me nothing, and you've got to look at that position and what is that person contributing and whether or not that's a position that should be moved to the Western Region, number, one.

That's a hard question that continues to be out there, and I just don't get any answer. I've never gotten an answer on it.

Number two, in terms of what we can do at the end, I'm speaking for myself, but others may speak as well. The Staff Director is doing a great job of starting to churn out the backlog of these reports. I am having an incredibly tough time trying to keep up with that.

And I could, and I know I could find
someone because this is a good time of the year to find someone like that, a temporary special assistant just for the two or three-month period as we run these things through to help me go through that. I'm not talking about permanent. I'm just talking about someone who would agree that their term would expire September 30th, 2008, but who would nevertheless be able to be useful to me, possibly to others on the Commission, to help grapple with the fact that Omaha, Census, other things are all coming, piling in.

Some things we have deliberately kind of pushed back because we know the work load just from review is becoming a little bit too much. I mean, why haven't we looked at that? Because I certainly could do that, and it would be a temporary assignment with an express provision that expires at the end of the fiscal year with no guarantee of anything beyond that.

But because of the number of reports that we have coming out, it would be extremely helpful to me.

CHAIRMAN REYNOLDS: I guess the first thought that comes to mind is that would be a new animal, a temporary special assistant, and that's not suggesting whether it's doable or not, but that's the first thing that comes to mind.
Have we looked at whether that's --

STAFF DIRECTOR DANNENFELSER: Well, I guess the issue is --

CHAIRMAN REYNOLDS: -- permissible?

STAFF DIRECTOR DANNENFELSER: Right. That if special assistants are Schedule Cs, is it possible to hire a temporary Schedule C?

As to hiring a temporary person from an employment agency, that's what we're doing in the case of these other two in OCRE and OGC, but if we're talking about a special assistant who's a Schedule C --

COMMISSIONER YAKI: But the -- but --

STAFF DIRECTOR DANNENFELSER: -- I'm not sure is --

COMMISSIONER YAKI: -- but if that Schedule C's budget authority expires at the end of the year, isn't that the same thing?

VICE CHAIR THERNSTROM: Wouldn't we be vulnerable to a Jack Daly kind of claim? You know, he was temporary. He was hired temporarily.

CHAIRMAN REYNOLDS: Well, I don't think that Mr. Daly has a strong claim. So --

COMMISSIONER GAZIANO: That's a matter for the executive.
STAFF DIRECTOR DANNENFELSER: Yes, we don't want to go there.

VICE CHAIR THERNSTROM: Well, he's tying us up. That's all I know.

COMMISSIONER YAKI: Yes, but this would be tied to the actual budgeted position. In other words, if the budget for that position expires, I don't think there's a claim to be made that you have an entitlement to that position beyond that period.

STAFF DIRECTOR DANNENFELSER: I guess the question is is there a mechanism to do that.

COMMISSIONER YAKI: Right.

STAFF DIRECTOR DANNENFELSER: An employment authority that would allow us to do that. I think in concept the idea sounds interesting, but it's a question of how do you make it happen.

CHAIRMAN REYNOLDS: Suggestion. Two things. First, I believe that we'll need an August meeting, which is not scheduled, and --

COMMISSIONER YAKI: Are you kidding me?

CHAIRMAN REYNOLDS: You don't like spending time in Washington during August?

COMMISSIONER YAKI: There are things going on in August for me that are happening.

CHAIRMAN REYNOLDS: Okay. Well, just to
let you know, there will be a motion to have an August meeting.

COMMISSIONER YAKI: If you hear a lot of screaming and yelling in the background when I'm on the phone, you'll know that I'm not having a good time.

CHAIRMAN REYNOLDS: I understand. Glasses clinking.

In any event, it seems to me in terms of compiling a list of priorities, we could also include -- well, we could do some research to see whether this is feasible and then have a discussion.

COMMISSIONER YAKI: Is the HR Director in the room? I mean, could she answer that?

STAFF DIRECTOR DANNENFELSER: The Director of Management is in the room who oversees the HR.

CHAIRMAN REYNOLDS: Is Tina?

STAFF DIRECTOR DANNENFELSER: Tina, do you want to come to the table?

CHAIRMAN REYNOLDS: Do we want to spring it on you with no preparation?

STAFF DIRECTOR DANNENFELSER: Wait. Why don't you get a microphone and sit at the table there?

MS. MARTIN: Yes, there are really only two temporary authorities for Schedule C. One would
be that 30-day appointment pending a critical need, and the other is a 120-day appointment, but it still has to go through OPM for approval. So you could set it at 30 days with another 30 days, which is the Jack Daly case, or you could do the 120 and get approval from OPM.

CHAIRMAN REYNOLDS: Okay. So it looks like, based on what we've just heard, that it's feasible. Why don't we throw that on the list of items to discuss in August as we prioritize?

COMMISSIONER YAKI: If we do it in August, then all I have is at the most someone who can help me for September. I was hoping --

COMMISSIONER HERIOT: You only get 30 days anyway.

COMMISSIONER YAKI: What?

COMMISSIONER HERIOT: You'd only be able to get 30 days.

COMMISSIONER YAKI: No, I know, but if we could make a decision now, I could have someone help me in August and September, especially if we're having an August meeting.

STAFF DIRECTOR DANNENFELSER: Tina, could you just clarify the point on the temporary authorities? Did you say they have to go through OPM.
also or just the 120-day?

MS. MARTIN: One hundred and twenty-day, and that is pending like if you have a new agency head and you have to determine if, Marty, you are a new agency head, then you can get the 120-day appointment.

The 30-day, OPM wants you to come to them, but they do give us the authority to do it, but they do want you to let them know that you're using the 30-day appointment.

STAFF DIRECTOR DANNENFELSER: Are you using the 30-day appointment with the premise that this is somebody that you're going to be seeking on a permanent basis?

MS. MARTIN: Right. Well, that, yes, because the 30-day says pending permanent appointment.

CHAIRMAN REYNOLDS: Okay. That's somewhat problematic.

Let me -- wheels are turning. A scheme is about to be articulated.

COMMISSIONER YAKI: I just --

COMMISSIONER GAZIANO: Would you yield while the wheels are turning?

COMMISSIONER YAKI: I will yield.

COMMISSIONER GAZIANO: I just wanted to second appreciation so that when we do take up these
priorities and at that point I hope we can be creative about a number of the issues that other Commissioners have raised, whether to consolidate regional offices rather than just shifting them around --

CHAIRMAN REYNOLDS: Oh, you're talking about a much larger conversation.

COMMISSIONER GAZIANO: I don't want to have it now. I just want to suggest that we hopefully can be creative. You know, if anyone else gets a temporary special assistant, I'd like a temporary special assistant.

CHAIRMAN REYNOLDS: I suspect -- I assume so.

COMMISSIONER GAZIANO: And all I'm suggesting, I also would like, I think, if money were infinite, all eight of us would like our own special assistants.

I'm not prepared right now to know the relative importance of some of these other priorities. So that's why I'd like to see what's -- you know, to know what's coming, when this is coming so that we can ask the right questions and hopefully come to the right kind of priority and decisions.

COMMISSIONER YAKI: Will you yield back?

COMMISSIONER GAZIANO: Sure.
COMMISSIONER YAKI: To Ms. Martin, for the
30-day appointment that you're talking about, I was a
little unclear about the wording that you were using.
So if you could just help me out, if I just wanted to
make a 30-day appointment because I was going to try
this person out, this person may not work, this person
-- dah, dah, dah, at the end of that 30 days, if I did
not review it, that position is gone, correct? Right?

MS. MARTIN: Right. You serve at the
pleasure of the appointing authority.

COMMISSIONER YAKI: So my question is --

CHAIRMAN REYNOLDS: Who's the appointing
authority?

MS. MARTIN: The Commissioner.

COMMISSIONER YAKI: The Commissioner. So
the question is I don't see why I couldn't take
advantage of that 30-day appointment now as a 30-day
thing with the idea that it would not be renewed.

CHAIRMAN REYNOLDS: Based on what was
said, I believe that, again, it's doable, but the idea
of having the August meeting was to set priorities,
and that would be on the list of everything else.

I understand your argument that you don't
want to wait until August because that eats up time,
but to do a one off and do it without comparing it to
other priorities is somewhat problematic.

COMMISSIONER YAKI: Why?

CHAIRMAN REYNOLDS: They may have other items that have --

COMMISSIONER YAKI: I mean, we can ask what would be the budgetary impact of if I had one, if Commission Gaziano had one anyone else who needed a 30-day temporary assignment.

CHAIRMAN REYNOLDS: But the others on the list, the item -- well, do we hire someone to man the Western Office? Do we transfer -- what I was hoping to do was --

COMMISSIONER YAKI: But that's a permanent budgetary issue. That's not going to be someone we're going to hire for 30 days.

CHAIRMAN REYNOLDS: Okay, right.

COMMISSIONER YAKI: I'm talking about the fact that we have right now an amount of money that will be unspent between now and the end of the fiscal year. For us to decide in August what it should be spent on between now and September is really, you know, closing the barn door.

CHAIRMAN REYNOLDS: I would be comfortable making -- the concept, I'm comfortable with it, but I need to increase my comfort level in terms of the
budget. So let me turn to the Staff Director.

COMMISSIONER GAZIANO: If you don't mind, Mr. Chairman, and also if I could ask Tina for a clarification that there has to be an intention under the legal authority.

MS. MARTIN: Well, there is a caveat there that says you're waiting approval.

COMMISSIONER GAZIANO: There has to be an intention to make this a permanent hire. So if our intent as a Commission in authorizing this is that it's going to end, then the legal authority may not exist. I'm still unclear on that.

COMMISSIONER YAKI: Well, no, but I would argue that that would mean that any time we hire someone, their position here is indefinite. But the fact is that you hire some people, and this is probably turning into territory that we just want to be careful how I state this. There are probably some people who you hire that you decide don't quite fit that bill.

The budget position is for someone to be permanent. The person is not permanent, and I would argue that you can exercise at the end of that 30 days the decision not to pursue that person any further.

And I would also argue that, you know, if
we need to take a notational vote or something really quickly in the next week or so with a motion that would state basically that you can do that providing that you make it clear, blah, blah, blah, blah, blah, blah, because I will go on record as stating that I have no -- no I have no intention. I will affirmatively declare in the written offer that I give to someone that this position will expire at the end of blank days.

COMMISSIONER GAZIANO: But that's the problem. The legal authority would not allow that kind of use of the 30-day appointment.

CHAIRMAN REYNOLDS: What Commissioner Yaki meant to say is provided there isn't sufficient money in the budget.

COMMISSIONER YAKI: Exactly, right.

STAFF DIRECTOR DANNENFELSER: Well, the other thing, I think, is I don't believe an individual Commissioner would have the authority to make a hire. It would have to be made through the Commission. So that would be something we have to --

COMMISSIONER YAKI: Well, that's not what the statute says. The statute says that each Commissioner may hire his or her own special assistant.
STAFF DIRECTOR DANNENFELSER: But, again, we're talking about something outside. It sounds like the discussion is going a little bit out --

COMMISSIONER YAKI: Oh, that is not --

David, that is absolutely not true.

STAFF DIRECTOR DANNENFELSER: -- partly outside the special C.

COMMISSIONER YAKI: You mean someone else could hire my special assistant? That is garbage. The statute says I'm entitled to a special assistant.

CHAIRMAN REYNOLDS: Take it easy. Take it easy. Take it easy.

MR. BLACKWOOD: Commissioner Yaki, this is David Blackwood.

COMMISSIONER YAKI: Well, when David just shoots off like that, he's wrong.

CHAIRMAN REYNOLDS: Well, let's -- he may be wrong, but let's see what he has to say.

MR. BLACKWOOD: I would only point out, Commissioner, the statute specifically says the Commission hires. Now, the way it operates for special assistants is the Commission authorizes you and delegates to you to go hire the special assistant of your choice, but no Commissioner has an individual right automatically to go hire somebody.
There is authorization in our --

COMMISSIONER YAKI: Actually that's not
what I -- maybe then I would --

CHAIRMAN REYNOLDS: He's right.

COMMISSIONER YAKI: No, no, no. That's
actually not right because I remember the day I was
sworn in, the day I was sworn in in February something
or other of 2005, the first thing that I was told by
Ken Marcus was you have a right to hire a special
assistant.

CHAIRMAN REYNOLDS: Well, what Ken says
and what the statutes say to the extent that what
Ken's state -- to the extent that a statement deviates
from the statutory language --

COMMISSIONER YAKI: The Commission does
not hire a special assistant for me.

CHAIRMAN REYNOLDS: Okay. This is --

COMMISSIONER YAKI: I choose who that
person is.

CHAIRMAN REYNOLDS: But, Michael, this is
a technical point --

COMMISSIONER YAKI: That person works for
me.

CHAIRMAN REYNOLDS: -- that is not even
worth talking about because the bottom line is the way
it works is I don't hire your special assistant. That's the way it works. So the technicalities --

COMMISSIONER YAKI: That person would be gone in 38 minutes.

CHAIRMAN REYNOLDS: That is not true.

COMMISSIONER HERIOT: Thirty-eight?

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: Vice Chair.

COMMISSIONER GAZIANO: I have a question about what he's talking about.

COMMISSIONER HERIOT: I would think quicker than that.

VICE CHAIR THERNSTROM: Excuse me.

COMMISSIONER YAKI: No, no, I need some interrogation rights.

CHAIRMAN REYNOLDS: Okay. Where is my gavel?

Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: A couple of things. One, Commissioner Yaki, you keep reiterating your belief that you have an entitlement to a special assistant. That is not the way the statute reads, I believe.

CHAIRMAN REYNOLDS: The Vice Chair is right, but I really don't want to go down this road.
VICE CHAIR THERNSTROM: All right. Fine.

Okay.

CHAIRMAN REYNOLDS: Let's try to deal with the issue that was on the table.

COMMISSIONER YAKI: Should I put a report right there from last year?

COMMISSIONER HERIOT: I've got one clarification.

VICE CHAIR THERNSTROM: Wait a minute. I'm not finished. I'm going to move off that topic. I promise you that's my last word on that.

I am with the Chair in not being comfortable deciding priorities. We're talking about other temporary hires as well. We need to decide what our priorities are, and --

CHAIRMAN REYNOLDS: There's a middle ground though.

VICE CHAIR THERNSTROM: Okay. That's fine, but we are talking about quite a bit of money here, and I would like to hear from the Staff Director exactly, you know. If one or two temporary special assistants are hired, are we talking about, you know, 10K, 12K, something like that in a 30-day period?

CHAIRMAN REYNOLDS: Well, I think it's somewhat unfair to ask that question without any
COMMISSIONER YAKI: I'd like to move --
can I make a motion? I would like to make a motion
that by -- what day is today?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER YAKI: -- by Monday --

CHAIRMAN REYNOLDS: Monday?

COMMISSIONER YAKI: Wait for the whole thing. Wait for the whole thing.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: Don't jump the gun, Mr. Chair.

CHAIRMAN REYNOLDS: I've been picking up bad habits.

COMMISSIONER YAKI: By Monday, by Monday -- I know. I understand. It's very easy to want to emulate me --

CHAIRMAN REYNOLDS: I didn't refer to you.

COMMISSIONER YAKI: On -- on -- and flattering -- on Monday, I make a motion that on Monday any Commissioner who currently does not have a special assistant submit whether or not he or she is interested in having a temporary special assistant for the remainder of this fiscal year, number one.

CHAIRMAN REYNOLDS: We can do that now.
COMMISSIONER YAKI: I'm just giving people time.

CHAIRMAN REYNOLDS: To think about it?

VICE CHAIR THERNSTROM: We've all got the same problem that you do.

COMMISSIONER GAZIANO: I've already expressed my interest if the legal authority exists. I still question the legal --

COMMISSIONER YAKI: You haven't heard the rest of my motion.

CHAIRMAN REYNOLDS: Okay. Let's listen to the motion.

COMMISSIONER YAKI: And then by Thursday of next week, we receive a report and recommendation on whether we can proceed or not and have that in the form of a notational vote.

CHAIRMAN REYNOLDS: Well, I would propose that we have a teleconference so that there can be discussion, and I also believe that this teleconference, other items should be included so that, again, priorities.

VICE CHAIR THERNSTROM: August meeting.

CHAIRMAN REYNOLDS: Well, no. I don't think we -- Commissioner Yaki makes a very good point. His time is chewed up if we wait. I propose that we
have a teleconference between now --

COMMISSIONER HERIOT: My question isn't trivial.

CHAIRMAN REYNOLDS: -- between now and the August meeting --

COMMISSIONER HERIOT: Can you get two 30-day segments or can you only get one 30-day segment?

MS. MARTIN: It's 30 day with one 30-day extension.

COMMISSIONER HERIOT: So you can extend the 30 days for a second 30 days.

CHAIRMAN REYNOLDS: Okay. So is that acceptable that we select a date to discuss our priorities which will include the hiring of temporary special assistants some time between now and the next scheduled meeting, which will be -- well, I'm sorry -- the August meeting that we'll vote on.

COMMISSIONER GAZIANO: Mr. Chairman, do you propose to discuss the other priorities at that time?

CHAIRMAN REYNOLDS: Yes, yes, yes.

COMMISSIONER GAZIANO: Okay.

VICE CHAIR THERNSTROM: Well, we need a lot of information from the Staff Director before we -
STAFF DIRECTOR DANNENFELSER: Mr. Chairman, I think the General Counsel has a question about the proposal.

MS. MONROIG: If your proposal is to have a telephonic meeting, you need to notify the Federal Register a certain number of days before.

COMMISSIONER YAKI: That's why I wanted a notational vote.

CHAIRMAN REYNOLDS: Okay. Is that --

COMMISSIONER YAKI: No, I'm just saying the reason I want a notational vote just on this specific issue and narrow it to this question is because that can be -- I don't know. I would think that if the report were to say this is how much money we are projectioned to be remainder. This would be the impact of having X number of special assistants on a temporary basis as enunciated by -- as requested by Commissioners blankity-blank blankity-blank, and maybe everyone votes no and we have a broader discussion, but I just think if we wait for a telephonic meeting, you and I, Mr. Chairman, know our success rate at scheduling telephone meetings.

CHAIRMAN REYNOLDS: Well, we don't --

COMMISSIONER YAKI: Which usually takes --

CHAIRMAN REYNOLDS: I don't think we have
a problem scheduling them. I think that they don't go well since we're not in the same room.

COMMISSIONER YAKI: My experience has been that usually even trying to schedule in, say, a one to two-week period and then we have to do the Federal Register notice; by that time we're well into August.

CHAIRMAN REYNOLDS: Okay. How about this. Let's off line have a discussion in terms of the selection of a date to have this meeting. We would have a conversation with Marty.

COMMISSIONER YAKI: It's 15 days, right?

VICE CHAIR THERNSTROM: Look. An early August meeting --

COMMISSIONER YAKI: Is it 15 days we have to give --

STAFF DIRECTOR DANNENFELSER: The Federal Register notice? Seven?

MR. BLACKWOOD: Actually it's a total of ten in practice because of the days that they require to print out the notice. So it's ten days.

COMMISSIONER YAKI: They're saying that the Federal Register practice is ten days.

STAFF DIRECTOR DANNENFELSER: You have to send a notice and it takes a couple of days until it gets printed.
CHAIRMAN REYNOLDS: There's the date, the 11th.

COMMISSIONER GAZIANO: Mr. Chairman, my reason why I'd prefer discussion is that my opinion may well turn on the legal authority. Again, the way Commissioner Yaki describes it, when we're authorizing individual Commissioners to hire temporary special assistants, we as the Commission have to have the serious intent to keep them on. That seems to me that we would be making a commitment to find the funds in FY 09 to keep them on.

CHAIRMAN REYNOLDS: We would take a look at the budget to see if it --

COMMISSIONER GAZIANO: Okay. I just have these legal questions I'd want answered at that point.

CHAIRMAN REYNOLDS: Sure, sure.

VICE CHAIR THERNSTROM: In order to have a discussion about priorities, which it seems to me this has got to be part of, don't we need more information from the Staff Director and don't we need to give the Staff Director time to generate that information?

CHAIRMAN REYNOLDS: Most of the information, the budget information, we have. It's a matter of analyzing it as opposed to collecting the data, but, yes, I agree, that the Staff Director will
have to do some work in terms of looking at the numbers, making sure that and looking for reoccurring streams of income.

VICE CHAIR THERNSTROM: Well, but also, what positions were in the agency we're talking about here that really need to be filled if this place is going to function properly --

CHAIRMAN REYNOLDS: Yes, yes.

VICE CHAIR THERNSTROM: -- and so forth. I mean we are going to be very close to the possibility of an early August meeting as the clock runs out here in terms of, you know, getting a teleconference together, and I would like to have a vote on having an early August meeting instead.

I mean, I just don't think we're going to lose much time by doing that, and I think it's a much more effective thing to do.

COMMISSIONER YAKI: I will be unable to attend in any way, shape or form --

VICE CHAIR THERNSTROM: But you would be able to --

COMMISSIONER YAKI: -- telephonically or otherwise an early August meeting.

CHAIRMAN REYNOLDS: Commissioner Yaki, are you being stubborn?
COMMISSIONER YAKI: No. If you --

CHAIRMAN REYNOLDS: You can tell me.

COMMISSIONER YAKI: The schedule, if you were to look at a schedule of another set of activities I'm involved in, they all occur in the first two weeks of August.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: I mean, there are things that have to be done, and it is --

VICE CHAIR THERNSTROM: But you are free when to have some kind of participation?

COMMISSIONER YAKI: The week before another event occurs, which occurs the week of the 24th of August, but by that time, you know, in terms of a meeting, that would be fine for a regular meeting, but I will only do it telephonically. I can tell you that because I'm going to be somewhere trying to rest up between the frenzy of the first two weeks, whatever, but I don't want that to replace this other thing because otherwise I'm out of luck in terms of trying to get some help for all of these reports that are just turning up.

VICE CHAIR THERNSTROM: Well, we're all in that position in terms of help with reports.

CHAIRMAN REYNOLDS: Okay. I propose --
COMMISSIONER YAKI: I would say not, with all due respect.

CHAIRMAN REYNOLDS: Okay. I propose that we take a break, a short break and continue the discussion after we return.

(Whereupon, the foregoing matter went off the record at 11:06 a.m. and went back on the record at 11:38 a.m.)

CHAIRMAN REYNOLDS: Okay. Back on the record.

The plan is to have a teleconference where we discuss the feasibility and desirability of hiring temporary special assistants to help us out with a backlog of briefing reports, and this is also contingent upon a determination by the General Counsel that this is legal either through the 30-day appointment process or the 120-day process.

I'm going to put that in the form of a motion. Is that --

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Discussion.

COMMISSIONER GAZIANO: Before I vote, can I ask Commissioner Kirsanow whether you would be available on said date to participate?

COMMISSIONER KIRSANOW: I believe so.
CHAIRMAN REYNOLDS: Thank you.
All in favor, please say aye.
(Chorus of ayes.)
CHAIRMAN REYNOLDS: Any objections?
(No response.)
CHAIRMAN REYNOLDS: Any abstentions?
COMMISSIONER GAZIANO: Can I ask for a clarification on the motion?
CHAIRMAN REYNOLDS: Yes.
COMMISSIONER GAZIANO: So that I can reverse?
CHAIRMAN REYNOLDS: Yes, if you must.
COMMISSIONER GAZIANO: So this is on temporary special appointments or, since we're going to have to notice this in the Register ahead of time, and if that fails other possible ways to spend this money?
CHAIRMAN REYNOLDS: Yes, yes.
COMMISSIONER GAZIANO: Okay.
CHAIRMAN REYNOLDS: Okay. I'm sorry.
Let's do it again. All in favor please say aye.
(Chorus of ayes.)
CHAIRMAN REYNOLDS: Any objections?
(No response.)
CHAIRMAN REYNOLDS: Any abstentions?
(No response.)

CHAIRMAN REYNOLDS: The motion passes unanimously.

Okay. Somebody help me. Where are we?

VICE CHAIR THERNSTROM: In Management and Operations, we still have to discuss the Staff Director's succession problem and the budget.

CHAIRMAN REYNOLDS: So right now we're on the budget submission to Congress.

V. MANAGEMENT AND OPERATIONS:

FY 2009 BUDGET SUBMISSION TO CONGRESS

CHAIRMAN REYNOLDS: Okay. In September of 2007, the Commission submitted to the Office of Management and Budget a Fiscal Year 2009 budget estimate for approximately $11.7 million. Based on input from the office or from OMB, the Commission will be submitting, will submit an $8.8 million budget request to Congress, which is in line with the President's request.

As the Staff Director noted in his report on June 19th, the Senate Appropriations Committee adopted a committee report that included and 8.8 FY 2009 budget for the Commission. Similarly, the House Appropriations Committee adopted an $8.8 million 2009 budget for the agency on June 25th.
The Commissioners are in receipt of the 2009 budget narrative and related attachments, including the Commission's staffing plan and operating plan, which were distributed in June. Each of these documents will be submitted to Congress upon Commission approval of the 8.8 '09 request.

I move that we approve this admission of an $8.8 million request for Fiscal Year 2009 to Congress.

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER MELENDEZ: Abstain.

COMMISSIONER YAKI: Abstention.

CHAIRMAN REYNOLDS: Pete?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: That's good enough.

Okay. Let the record reflect that Commissioners Yaki and Melendez abstain. The remaining Commissioners voted in favor of the motion.
The motion passes.

Next up, the issue that Commissioner Melendez put on the agenda.

V. MANAGEMENT AND OPERATIONS:

REEVALUATING AGENCY AI ON ORDER OF PRECEDENCE

COMMISSIONER MELENDEZ: The issue that I brought forward this morning was to reevaluate the agency's AI on the order of precedence now that we have a new Staff Director.

Again, for the record, I had presented a motion to reevaluate the agency's AI on the order of precedence now that we have a new Staff Director, and that issue had to deal with who's in charge should the Staff Director not be available, and I know that at the time I believe the Assistant Staff Director, we had that discussion, and I don't think we have an Assistant Staff Director at this time, and it has to do with the chain of command depending on whether or not they're SES position or whether or not they're GS positions, and I think you might be bound by that at this point.

So I'm not sure who would be in charge right now if you weren't available. So I'm not asking for an answer today. We could actually have you go back and look at the way it should be set in place as
to what we have now, and if there's recommendations that come out of the next meeting as to how you see the chain of command and what would happen, that would be fine also.

CHAIRMAN REYNOLDS: Okay. I propose that we put this on the agenda for August so that we can do --

COMMISSIONER MELENDEZ: Research on it.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: And whatever you have to do. That's fine.

CHAIRMAN REYNOLDS: Okay. Next up is a discussion of a 2009 statutory report. That's a report on the -- the focus will be the Home Sweet Home Program. Based on the concept paper, the focal point will be the Home Sweet Home Program.

VI. PROGRAM PLANNING: 2009 PROGRAM PLANNING/

2010 PROGRAM PLANNING

CHAIRMAN REYNOLDS: And I would like to open up a discussion on whether it should be expanded. I'm going to move that we expand it so that it includes the subprime issues that are being discussed, in addition to allegations of redlining.

Is there a second?

COMMISSIONER GAZIANO: Second.
VICE CHAIR THERNSTROM: But, Mr. Chairman, do we need at some point -- you just referred to the office meeting, but there has not yet been a motion to have such a meeting. Are we going to?

CHAIRMAN REYNOLDS: Oh, okay, okay. Let's back up a little bit.

I move that we have a meeting in August and that -- well, let's check our calendars to see what's available.

COMMISSIONER GAZIANO: As I understand it, it's the week of --

CHAIRMAN REYNOLDS: The 22nd. Check your calendars to see if you're available on the 22nd.

VICE CHAIR THERNSTROM: I'm okay. Pete?

COMMISSIONER KIRSANOW: Okay.

VICE CHAIR THERNSTROM: Would an August meeting on the 22nd of August?

COMMISSIONER KIRSANOW: Yep.

COMMISSIONER HERIOT: Oh.

(Laughter.)

COMMISSIONER HERIOT: Not so great.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: I know I told you that I wanted to get out of a party that was on that day.
CHAIRMAN REYNOLDS: And I was helping.

COMMISSIONER HERIOT: You were. You were.

Unfortunately, that means I have to commit Thursday, too, to get there.

CHAIRMAN REYNOLDS: Okay. I'm fine with that.

COMMISSIONER HERIOT: If it's the only date, I can take the Red Eye.

CHAIRMAN REYNOLDS: Okay. If that's the case.

COMMISSIONER MELENDEZ: I'm fine for the 22nd.

CHAIRMAN REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Is earlier in the week better for you, Ms. Heriot?

COMMISSIONER HERIOT: I don't know because classes are going to start.

VICE CHAIR THERNSTROM: That was the week you could do, Commissioner Yaki?

COMMISSIONER YAKI: I mean, I won't be here in person.

VICE CHAIR THERNSTROM: But you can do it by phone.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: I love those 6:00 a.m.
Commission meetings.

VICE CHAIR THERNSTROM: We can make it a little later for you.

CHAIRMAN REYNOLDS: Okay, folks. It looks like the 22nd will work.

VICE CHAIR THERNSTROM: Why don't we make it ten o'clock for Commissioner Yaki?

COMMISSIONER YAKI: No, because people have got to get planes.

(Laughter.)

CHAIRMAN REYNOLDS: Due to you.

COMMISSIONER YAKI: Commissioner Thernstrom.

VICE CHAIR THERNSTROM: No, I just complained about the early hour anyway.

COMMISSIONER YAKI: I wasn't complaining.

CHAIRMAN REYNOLDS: Oh, you mean ten o'clock his time?

COMMISSIONER HERIOT: Six o'clock his time.

CHAIRMAN REYNOLDS: Oh, okay. All right, folks. Do we want to select a time at this point?

COMMISSIONER HERIOT: Okay with me.

CHAIRMAN REYNOLDS: I'd say what, ten o'clock?
COMMISSIONER HERIOT: Oh, here's actually
the reason. I am evidently getting the treat of the
Red Eye, which means that I'm going to be getting in
and I need to at least take a shower at my mother's
house.

CHAIRMAN REYNOLDS: Ten o'clock, does that
work?

COMMISSIONER GAZIANO: I'd actually, now
that I think about it, I may have a problem. Can you
check your law school calendar to see if earlier in
the week -- do we have to do these on Friday?

CHAIRMAN REYNOLDS: We don't have to, and
we have done them on other days in the past, but
infrequently.

COMMISSIONER GAZIANO: I may have --

COMMISSIONER YAKI: The infamous Strove
Tuesday in Mardi Gras, for example.

COMMISSIONER GAZIANO: I may be not
available that day.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: Can you make
yourself available that day?

COMMISSIONER GAZIANO: I may be supposed
to be flying to Gail and Yaki's fair state.

CHAIRMAN REYNOLDS: Okay. What about the
18th?

COMMISSIONER HERIOT: I don't know. I don't know my USD schedule. I can call.

COMMISSIONER GAZIANO: Can we just for now maybe pause. Do it some time this week and she can get her schedule and then we can move on.

COMMISSIONER HERIOT: Give me a second to call and find out what date classes are.

CHAIRMAN REYNOLDS: Okay. Let's take a short break. No one move except Gail.

(Whereupon, the foregoing matter went off the record at 11:48 a.m. and went back on the record at 11:52 a.m.)

CHAIRMAN REYNOLDS: Okay. Pete, does the 18th work for you?

COMMISSIONER KIRSANOW: One moment.

Yes.

CHAIRMAN REYNOLDS: Okay. So going around the room --

VICE CHAIR THERNSTROM: Wait a minute. Was that a yes or a no?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: That was a yes.

COMMISSIONER MELENDEZ: How about Tuesday,
the 19th?

CHAIRMAN REYNOLDS: You're kidding me.

COMMISSIONER MELENDEZ: They can have a weekend to fly out here.

CHAIRMAN REYNOLDS: Sunday.

COMMISSIONER MELENDEZ: I know. It's still a weekend.

COMMISSIONER GAZIANO: The 19th?

CHAIRMAN REYNOLDS: Okay. Let's look at the 19th. Are you there?

VICE CHAIR THERNSTROM: Pete, how about the 19th?

CHAIRMAN REYNOLDS: Does the 19th work for you?

COMMISSIONER KIRSANOW: Yes.

COMMISSIONER HERIOT: It does, but sort of the convenience is the other way around.

CHAIRMAN REYNOLDS: Okay. We have a battle of over convenience here.

COMMISSIONER HERIOT: I can do both. I can do both.

CHAIRMAN REYNOLDS: Would you like to be a gentleman about it and defer to Gail?

COMMISSIONER HERIOT: I can defer to Arlan just as long as somebody remembers that I deferred to
him.

(Laughter.)

CHAIRMAN REYNOLDS: Okay. We'll make a note of it. We're on for the 19th, folks.

VICE CHAIR THERNSTROM: Okay, and, Mr. Staff Director, there's no problem here at the Commission having a meeting on a Tuesday?

STAFF DIRECTOR DANNENFELSER: There will be some challenges, but we can work it out.

CHAIRMAN REYNOLDS: Okay. We just started a conversation on the 2009 statutory report.

COMMISSIONER GAZIANO: Can I speak to the motion I seconded?

CHAIRMAN REYNOLDS: Yes, indeed.

COMMISSIONER GAZIANO: Trying to look ahead toward that, the Home Sweet Home operation I found in the Department of Justice's Website a press release dated October 26th, 2007, in which the department announces the results of that operation that was begun in February 2006 so that without confirming this, the press release indicates that these are retrospect or it is announcing what the results are of the completed program.

So I think that makes it less interesting.

I would rather instead of expand our topic to go...
beyond that to actually switch to the more relevant topics within fair housing, and the ones that you mentioned, Mr. Chairman, seem more interesting to me.

CHAIRMAN REYNOLDS: Okay. Any other comments?

(No response.)

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

COMMISSIONER GAZIANO: Aye.

CHAIRMAN REYNOLDS: Thank you.

COMMISSIONER HERIOT: What exactly is the motion?

VICE CHAIR THERNSTROM: I'm sorry. Is there a motion on the floor?

CHAIRMAN REYNOLDS: Yes. I, before the discussion about the calendars, I had moved that we expand the 2009 statutory report. Todd seconded it.

VICE CHAIR THERNSTROM: Without specifying?

CHAIRMAN REYNOLDS: To look at --

COMMISSIONER GAZIANO: To other fair housing topics. I don't know how then we're --

CHAIRMAN REYNOLDS: Subprime.

COMMISSIONER HERIOT: I guess I need more discussion then. It seems --
CHAIRMAN REYNOLDS: Well, that's why the floor -- I mean, sure.

COMMISSIONER HERIOT: It seems to me that we tend to make mistakes in having topics that are too broad, and we end up with reports that are unmanageable, and it seems to me that the old topic, the Home Sweet Home Program, if it has been canceled, maybe we should just switch to the topic that we're expanding because these are really very different things, the Home Sweet Home Program and the --

COMMISSIONER GAZIANO: That's what I had meant to do, but we should probably amend the motion.

COMMISSIONER HERIOT: Yes, and the motion as it is just expands. We should just switch.

COMMISSIONER GAZIANO: Okay. Move to amend the motion so that we choose a different focus within the fair housing topic, whatever the procedure is to do so, and we try to come up with an exciting, relevant, and manageable topic --

COMMISSIONER HERIOT: Very manageable.

COMMISSIONER GAZIANO: -- within the fair housing topic for our statutory report for FY 2009.

I don't know that that -- that's the end of the motion.

CHAIRMAN REYNOLDS: Do we want to provide
a little bit more guidance that this would --

COMMISSIONER GAZIANO: I was going to discuss what some of my ideas are, but I don't want to necessarily -- I don't necessarily think the motion that we vote on needs to be definitive on what the topic is.

CHAIRMAN REYNOLDS: Okay. If that's the case.

COMMISSIONER MELENDEZ: Yes. How does it mesh in? I know that it sounded to me like we were still looking at what briefings and reports we were going to be looking at for 2009 and if we were really -- whether or not we were going to reopen that or whether or not it's pretty well set, and doesn't that discussion come into that or what are we saying here?

CHAIRMAN REYNOLDS: Let's see. Let me check my notes.

COMMISSIONER GAZIANO: I moved earlier to amend the agenda to talk about 2009 program planning.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER GAZIANO: It was my intention at that time to talk about the briefing reports as well.

CHAIRMAN REYNOLDS: That's right. Here it is.
COMMISSIONER MELENDEZ: Do you want to defer to that time?

CHAIRMAN REYNOLDS: Well, okay. You make a good point. Do you want to --

COMMISSIONER GAZIANO: Sure. It seems to me the statutory report is a slightly different priority, and you all -- to be quite honest, I'm not thrilled about the fair housing area as well, but if I were the czar of the Commission, I might choose a different topic altogether, but the fair housing topic is one the Commission selected, and I think there's plenty of interesting topics within it.

But do you want to open it up to --

COMMISSIONER MELENDEZ: Well, no.

CHAIRMAN REYNOLDS: This is a good time. This is a good time. Let's open it up. Let's take a look at first what is on deck for the remainder of the year in terms of briefings. I believe that we have one briefing that's already teed up, and the remainder of the year we have not selected specific topics.

VICE CHAIR THERNSTROM: Mr. Chairman, isn't there a motion on the floor, however, that we need to vote on?

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: I'd be willing to
defer to -- the proposal we had last time for the briefing reports for 2010 and later was a proposal for a process, and I wanted to propose today that we adopt that process for 2009 and beyond, and that process is that we don't choose briefing report topics -- that we do choose briefing report topics a quarter ahead.

CHAIRMAN REYNOLDS: Okay. How about this?

Let's clean this up.

VICE CHAIR THERNSTROM: The motion on the table.

CHAIRMAN REYNOLDS: Let's vote on the motion, and then the next issue is the issue over process.

COMMISSIONER GAZIANO: I'm just trying to explain to Commissioner --

COMMISSIONER HERIOT: I'm lost.

CHAIRMAN REYNOLDS: I'm trying to clean this up a little bit.

Commissioner Yaki.

COMMISSIONER YAKI: Well, in reference to Commissioner Gaziano's remark, is the motion on the floor that we're ditching the 2009 report and opening it up for discussion?

CHAIRMAN REYNOLDS: No, and correct me if I'm wrong.
COMMISSIONER YAKI: I thought it was.

COMMISSIONER GAZIANO: My motion is that we change the focus of the 2009 statutory report within fair housing, and then we can discuss how to do that.

COMMISSIONER YAKI: Okay. So he's ditching it and we're going to figure out what it is within that topic.

CHAIRMAN REYNOLDS: Okay. What do you believe is being ditched?

COMMISSIONER YAKI: The whatever the topic was and then Home Sweet Home within that.

CHAIRMAN REYNOLDS: The topic is fair housing.

COMMISSIONER HERIOT: The topic unfortunately was Home Sweet Home.

CHAIRMAN REYNOLDS: The topic, the overall topic was fair housing. It's a Home Sweet Home focus. That is being, to use your parlance, ditched.

COMMISSIONER YAKI: In reference to Commissioner Heriot's remark about it being too broad, I mean --

COMMISSIONER HERIOT: The broadness was Gerry's motion was to take that narrow topic and open it, and it just seems to me that we're putting two
different topics together.

COMMISSIONER YAKI: Well, fair housing is a rather broad area in which to try to --

VICE CHAIR THERNSTROM: We're not going to vote on a fair housing topic. We're going to vote on --

COMMISSIONER YAKI: So in other words, the essence of the description was --

VICE CHAIR THERNSTROM: -- on applying --

COMMISSIONER YAKI: We're ditching -- we're ditching it, and we're going to create a new one.

VICE CHAIR THERNSTROM: No. Modifying the fair housing statement.

COMMISSIONER HERIOT: It ditched us. There is no such program anymore.

COMMISSIONER GAZIANO: Yes, my motion is that we should commit ourselves to coming up with a manageable, relevant --

COMMISSIONER YAKI: Take your shoe and pound it on the table.

(Laughter.)

COMMISSIONER GAZIANO: Excuse me for my Italian mannerisms rather than my Soviet mannerisms.

-- to come up with a relevant, manageable,
exciting topic that will excite us all and the staff
for 2009 statutory report.

VICE CHAIR THERNSTROM: Exciting is too
much to ask.

COMMISSIONER HERIOT: Yes, I'm not easily
excited.

COMMISSIONER GAZIANO: Scratch the
exciting.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: But I think it's
important that we recognize that we're not ditching
Home Sweet Home. It ditched us.

CHAIRMAN REYNOLDS: Folks, unless you want
to have more discussion, I propose that we vote on
Todd's motion and then open the discussion up
regarding the process by which we select briefing
topics.

COMMISSIONER MELENDEZ: Question. As far
as looking at topics that are within the broader --
you know, talking about the subject, could we have
more time to determine what we would narrow it down
to?

I mean, if you ask me right now --

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: Do you know what I
mean?

CHAIRMAN REYNOLDS: Yes, we're not making that decision right now. I know what I want to focus on, this subprime issue and allegations of --

COMMISSIONER YAKI: The first redline.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: That's fine.

CHAIRMAN REYNOLDS: But we're not making a determination at this meeting on the specific focus.

COMMISSIONER MELENDEZ: Okay. That's fine.

COMMISSIONER HERIOT: Really? What are we deciding then?

CHAIRMAN REYNOLDS: That we're ditching Home Sweet Home.

(Laughter.)

COMMISSIONER MELENDEZ: Thank you, thank you.

COMMISSIONER GAZIANO: And we're going to come up with a new focus.

COMMISSIONER HERIOT: Yes, but what's (pause) --

VICE CHAIR THERNSTROM: I would not use the word "ditching."

COMMISSIONER HERIOT: It ditched us.

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CHAIRMAN REYNOLDS: I'm telling you I'm picking up bad habits.

COMMISSIONER GAZIANO: Would it help if you discussed your idea of how and when we would refocus?

CHAIRMAN REYNOLDS: Well, I would hope that at the August meeting that would be a sufficient amount of --

COMMISSIONER MELENDEZ: We bring up the topics, and then we can decide.

CHAIRMAN REYNOLDS: By the August meeting, I hope that we will all have given it some thought and arrive at --

COMMISSIONER GAZIANO: Circulated some ideas maybe amongst ourselves.

CHAIRMAN REYNOLDS: -- arrive at the meeting ready to discuss whatever focus you want to emphasize. I put my two down as examples. That does not mean that you folks don't have --

COMMISSIONER HERIOT: The thing that I'm adamant on is I don't want the potential for a report that's on everything on fair housing.

CHAIRMAN REYNOLDS: Okay. We're not going there.

VICE CHAIR THERNSTROM: We're not going to
do that.

    CHAIRMAN REYNOLDS: And if we do, you can object.

    COMMISSIONER HERIOT: I'll die.

    CHAIRMAN REYNOLDS: No, you won't.

    COMMISSIONER GAZIANO: Is it all right if we submit some of our ideas to the Staff Director --

    CHAIRMAN REYNOLDS: Yes, yes. Sure, of course.

    COMMISSIONER GAZIANO: -- and General Counsel and others for refinement and assistance --

    CHAIRMAN REYNOLDS: Yes.

    COMMISSIONER GAZIANO: -- so that they can then assist us in what are proposed? Okay.

    CHAIRMAN REYNOLDS: Somebody help me. Where are we? Did we vote?

    STAFF DIRECTOR DANNENFELSER: No.

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

    (Chorus of ayes.)

    CHAIRMAN REYNOLDS: Objections?

    (No response.)

    CHAIRMAN REYNOLDS: Abstentions?

    (No response.)

    CHAIRMAN REYNOLDS: The motion passes
unanimously.

STAFF DIRECTOR DANNENFELSER: Mr. Chairman, I would just like to suggest that we have permission from the Commissioners to modify the narrative in the FY 2009 budget just to reflect that "ditched" revision.

CHAIRMAN REYNOLDS: Yes.

STAFF DIRECTOR DANNENFELSER: We did have language in there. We had some footnotes saying that we might change the topic. So perhaps we will just refine it a little bit to refer to it in a broader fair housing sense as opposed to the focus on Home Sweet Home that's in the narrative.

CHAIRMAN REYNOLDS: Okay. My notes, okay, at this point, how about -- okay.

I move that we have a discussion regarding the manner in which we select our briefing reports. Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion.

COMMISSIONER GAZIANO: The motion was made at the last meeting that we set to be more nimble and use our resources more effectively, that we set our briefing topics the quarter ahead, and I think that we ought to adopt that policy for fiscal year 2009 and
beyond, and we can certainly consider for whatever persuasiveness they provide us whether the topics that have previously been approved should make it on any particular report.

CHAIRMAN REYNOLDS: Okay. Commissioner Yaki.

COMMISSIONER YAKI: I'd like to amend that to simply state that previously approved topics shall be considered for inclusion in review and determination of each of those topics.

CHAIRMAN REYNOLDS: Can you accept a friendly amendment?

COMMISSIONER YAKI: I want to move it stronger because some of these topics are important and have been around for a while and need to be studied just as much as whatever the flavor of the month happens to be.

COMMISSIONER GAZIANO: Explain to me how that would work.

CHAIRMAN REYNOLDS: I believe what he's saying is that each quarter, according to the proposed plan, we would consider various topics. He's only saying that the topics that are on deck be included for consideration.

COMMISSIONER GAZIANO: Do they have to be
included forever more?

COMMISSIONER YAKI: Yes.

COMMISSIONER GAZIANO: That's my question.

COMMISSIONER YAKI: Yes.

COMMISSIONER GAZIANO: They have to be included forever more?

CHAIRMAN REYNOLDS: What does that mean?

COMMISSIONER HERIOT: Do you mean 20 years from now, that we never have this --

COMMISSIONER YAKI: If 20 years from now we are worried about whether or not --

CHAIRMAN REYNOLDS: Commissioner Yaki, you can propose any topic that you like. That's the bottom line.

COMMISSIONER GAZIANO: Why can't you just propose those of the six each time you think or whatever? You see, I'm confused as to what are on the schedule and what's not. I've never gotten a straight answer to that, but let's say you imagine there's a certain number that are. So they're automatically every single quarter put on that --

COMMISSIONER YAKI: I don't know that I imagined them. I think we've actually approved them and they exist.

COMMISSIONER GAZIANO: Assuming there are
some that are so privileged that they automatically will go on every single quarter from here to eternity plus any others that we individually want to suggest?

CHAIRMAN REYNOLDS: Okay. I don't believe that that's Commissioner Yaki's position.

COMMISSIONER HERIOT: I think it is.

COMMISSIONER YAKI: Actually Commissioner Yaki's position is that these were items that previous iterations of the Commission --

CHAIRMAN REYNOLDS: Does Commissioner Yaki agree with me that it is within his rights under this proposal to introduce any topic, any briefing topic that he likes?

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: You believe that --

COMMISSIONER YAKI: Commissioner Yaki believes that I can introduce any topic that I like. However, Commissioner Yaki also believes that --

CHAIRMAN REYNOLDS: Hold it. What is the "no" attached to then?

COMMISSIONER YAKI: Because I believe it should be the policy of the Commission, having previously approved certain items for approval before to affirmatively include those in the review each time you determine whether or not they are still relevant.
and whether or not they should --

CHAIRMAN REYNOLDS: Isn't this formal substance since any Commissioner could introduce any briefing topic --

COMMISSIONER YAKI: Mr. Chairman, if you were to ask me to pull out of my binder what we have approved over the last two years that we have -- that are in the queue every time, it would be difficult for me to do so. We have this. It's part of the information packets that we always have.

In other words, it is unrealistic, given the fact I have no special assistant --

(Laughter.)

COMMISSIONER YAKI: -- to --

CHAIRMAN REYNOLDS: Just had to slide that one in. Slide that one in.

COMMISSIONER YAKI: -- for me to recall each and every time we do this where they are, where I find them, and how to put them in the mix.

COMMISSIONER GAZIANO: Could I speak to this? It seems to me that under the Commission discretion policy that any Commissioner's power would be as broad as was necessary since to me if we get into this it's unclear to me. We may have a disagreement as to which ones are moot, which ones...
CHAIRMAN REYNOLDS: Are we talking about '09? Is this discussion limited to the briefing reports that have been selected for '09?

COMMISSIONER YAKI: If I recall, we have a backlog of '08, '07 and --

CHAIRMAN REYNOLDS: Well, '08 is almost over.

COMMISSIONER YAKI: Well, we have a backlog that goes into '09, including the '09 list, and there were some -- I mean, there are a fair number. I would certainly say those that have been previously approved should continue to appear on the list for consideration in each --

CHAIRMAN REYNOLDS: Now, are you talking about items that you have a personal interest in?

COMMISSIONER YAKI: No. I'm talking about items that have been previously approved.

CHAIRMAN REYNOLDS: So you're defending positions --

COMMISSIONER YAKI: I'm defending the position of prior Commission votes of things that were worthy of studying and that we should at least review them each time rather than have to try and figure out where they were because they were the --
CHAIRMAN REYNOLDS: I'm sure that Richard can figure this out. I'm sure that Richard has figured this out.

COMMISSIONER YAKI: He's not my special assistant.

COMMISSIONER GAZIANO: The Staff Director can possibly send you a list and you can agree or disagree.

COMMISSIONER YAKI: If he can send that list, he can include the list -- you know what? I just don't understand, Commissioner Gaziano, what the problem is with the fact that the Commission, this Commission, by usually votes, outvoting me. So these are mainly your topics --

CHAIRMAN REYNOLDS: And if we want to ditch our own topic I'm not sure --

COMMISSIONER YAKI: You can ditch it.

CHAIRMAN REYNOLDS: -- that you have a dog in the fight.

COMMISSIONER YAKI: I'm just saying that --

(Laughter.)

COMMISSIONER YAKI: I'm just saying that there --

COMMISSIONER GAZIANO: I just think your
amendment is subject to more disagreement.

COMMISSIONER HERIOT: It's also subject to
to error. If we forget to do it one time, does that mean
that somehow we've tainted a selection that was made?

COMMISSIONER YAKI: No, I don't think so.
I think that's getting a little silly. I mean, you
know, I'm just saying that there are a lot of things
that we have considered, voted on, and approved, and
it would be nice to ensure that those topics that we
did are still eligible for consideration, and they
should not be --

COMMISSIONER GAZIANO: They are eligible.

COMMISSIONER YAKI: -- and should not be
commented upon, also trying to go backwards in time to
try and find them when it's easily much more findable
by the fact that the staff has all of this in their
hands. That's all I'm saying.

CHAIRMAN REYNOLDS: I don't agree with
Commissioner Yaki. I am willing to vote with
Commissioner Yaki on this to move the damn -- to move
the conversation.

(Laughter.)

CHAIRMAN REYNOLDS: So I don't know how
others feel about it. Commissioner Melendez?

COMMISSIONER MELENDEZ: I remember that
the idea was to make sure that all of us had a specific topic so that nobody was left out, even on the minority here. If it were left by a vote, probably none of the topics that Michael and I have will come up for a vote, but the issue is to try to get everybody so that we were comfortable and in agreement with what topics should we have for the year.

Now, if we get to a point where all of a sudden somebody comes up with something else to replace something we already decided earlier, then somebody is going to get bumped, but we don't have the vote. So the problem is --

CHAIRMAN REYNOLDS: Yes, but we've been doing that at least sine I've been on the Commission. We have changed our mind. We have though, with respect to the old agreement that we had on having a carve-out, I don't believe that we have bumped any briefing topic that you folks had ownership of.

COMMISSIONER MELENDEZ: But I guess the other thing in scheduling, you know, we have a problem coming together so often. So you can do it two ways. You either set a schedule, just like we have now for 2008, community reinvestment, racial profiling, racial religious discrimination, racial corporate diversity,
Title IX in college athletics, is cheerleading a sport; now those are already set.

CHAIRMAN REYNOLDS: Please give that list to Commissioner Yaki.

COMMISSIONER MELENDEZ: But the issue would be -- now those are set.

COMMISSIONER YAKI: If I had an assistant to keep track of all this stuff.

COMMISSIONER MELENDEZ: The option to bump any one of those would be all of us taking a vote to replace one of those that we have already set. That's one way we could do it.

VICE CHAIR THERNSTROM: You have the list that Commissioner Yaki says doesn't -- that nobody has. You have it right there.

COMMISSIONER MELENDEZ: But here's the issue.

VICE CHAIR THERNSTROM: Right there. I've got it.

COMMISSIONER MELENDEZ: The issue is do we come together to set that list with the idea that we can actually change those along the line with three months. Are you saying that we shouldn't even try to set a list so that we end up with nothing really being set three months prior. Do you know what I mean?
CHAIRMAN REYNOLDS: The idea, as I understand it, is essentially we would select briefing topics on a quarterly basis. So we would just have a list of briefing reports that only go out one quarter and the remaining quarters in the year we would have nothing teed up.

COMMISSIONER MELENDEZ: I'm a proponent of seeing the future, even though I know that circumstances will change that, the future if I can set for the year. I have an idea when these are going to come about and that we can change that if we desire to replace one with another at the consensus of everybody.

If we get to we don't have anything in this place three month prior, I have a problem with that because we, for one thing, never come together on conference calls or anything else. You know, we have a real problem coming together and everybody being able to have input.

So I'm just saying I prefer setting the list and then having the idea to interject something else with consensus.

CHAIRMAN REYNOLDS: Well, how do you feel about just compiling a list and from that list, with the understanding that we could add and subtract from
it, from that list select topics for first quarter, and then go back to that list and select for the second quarter? That way --

COMMISSIONER MELENDEZ: Well, the issue was it took us a while because we had to prioritize. You know, at one point we wanted to put down your three topics or five and then at some point all of us did that, and then all of a sudden --

CHAIRMAN REYNOLDS: We would do that on a quarterly basis.

COMMISSIONER MELENDEZ: You know, I mean, see how much more work that is. Quarters go by really quick, and it was hard enough doing at one time for the whole year, but having to do that every quarter, to try to figure out, do you know what I mean?

CHAIRMAN REYNOLDS: No, but you can do it once. You can do it once and just identify the topics where you want them to fall, which quarter. I mean --

COMMISSIONER MELENDEZ: I just am not sure how it's going to work. I prefer to the old method, which seemed good to me.

COMMISSIONER YAKI: And just by way of clarification ---

COMMISSIONER MELENDEZ: I don't have a problem with changing it if we all agree to doing
COMMISSIONER YAKI: And by way of clarification, Mr. Chair, the violin is shrinking again. Just because there is a list of topics does not mean that any of us has access to what descriptors of each of those topics were. If you recall, most of the topics all had a little paragraph underneath them. I have no access to where those would be, again, and that's why I'm saying --

CHAIRMAN REYNOLDS: I'm not following you.

COMMISSIONER YAKI: The Vice Chair said it seemed to imply that I could drag up this list any time I wanted to. The problem is maybe I could drag up the list, but I would not have in sufficient detail the descriptors of the paragraphs that we have previously approved.

CHAIRMAN REYNOLDS: But what about the compromise that I offered where we would compile a list that would include a description, and we would select items from that list for a particular quarter, with the understanding that we could add to that list and subtract from it.

COMMISSIONER YAKI: That was my proposal.

CHAIRMAN REYNOLDS: Okay. We're in agreement.
COMMISSIONER GAZIANO: I'm sorry. I missed something. Before I want to privilege certain ones, I want to know what ones are supposedly on, have been approved or not, and I think that Michael's proposal complicates things and leads to further argument.

COMMISSIONER YAKI: Why would I want that?

(Laughter.)

VICE CHAIR THERNSTROM: That would be shocking.

COMMISSIONER GAZIANO: I missed something. What did I miss? Michael said --

COMMISSIONER YAKI: Why would I want to create further problems?

COMMISSIONER HERIOT: Let the record reflect that he laughed after he said that, too.

COMMISSIONER YAKI: When I find --

COMMISSIONER GAZIANO: I suggested that that approach would create further problems.

(Pause in proceedings.)

VICE CHAIR THERNSTROM: Do you think we could spend this amount of time on everything that comes up?

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER MELENDEZ: A question. We're
talking about putting this into place in 2009 because we already have in September Gail's topic on minority students and scientists. Then we also have November 2008 voting rights in U.S. territories, which is already on the Website from my understanding. So it sounds like we are already scheduled for 2008, and so we're really looking at applying this to 2009.

COMMISSIONER GAZIANO: I could amend it since we're sort of already set for the first quarter of September that this apply to hearings after September.

Is September -- oh, no, September is this -- that's right. September is 2008. So it would apply to any hearing October and beyond.

CHAIRMAN REYNOLDS: So do we have a framework here where the actual selection would occur on a quarterly basis? We will compile a list though for four quarters, compile the list, have a description of each topic, and then on a quarterly basis vote, select items off the list on a quarterly basis with the understanding --

COMMISSIONER HERIOT: Not necessarily on --

COMMISSIONER GAZIANO: Can we add? I would hope we could add things quarterly.
CHAIRMAN REYNOLDS: -- with the understanding that we can add and subtract from the list.

COMMISSIONER YAKI: But does that include the previously approved topics?

CHAIRMAN REYNOLDS: Okay. Give me a year. Are we talking about -- let's talk about '09.

COMMISSIONER YAKI: We have previously approved but not schedule topics for 2008, and we've approved but not scheduled topics for 2009.

CHAIRMAN REYNOLDS: If I understand Todd's previous statement, this would apply to 2009.

COMMISSIONER YAKI: Why is he starting October '08 then?

COMMISSIONER MELENDEZ: Well, it's the fiscal year, October 1.

CHAIRMAN REYNOLDS: So do we have the makings of a plan here, folks?

COMMISSIONER MELENDEZ: But I'm saying that since we already have November, voting rights in U.S. territories right on the Website, we should keep that in there and start --

CHAIRMAN REYNOLDS: Is that for '08?

COMMISSIONER YAKI: No, that's for '09.

COMMISSIONER MELENDEZ: October 1 is
Chairman Reynolds: Okay. Then it's '09.

Commissioner Melendez: Yes. I'm just saying we kind of committed to that one.

Chairman Reynolds: We don't commit to -- I mean our commitments aren't that --

Commissioner Melendez: Yes, I know.

(Laughter.)

Chairman Reynolds: They don't run that deep.

Commissioner Yaki: Let's just close it up because I'm going to vote no on this piece of crud anyway.

Chairman Reynolds: Now, with respect to --

Commissioner Yaki: Just take the vote. We're going to vote no. Just take the vote.

Chairman Reynolds: Okay. Now, let's articulate the motion. The motion is that we compile a list for the year of briefing topics, but that we vote on a quarterly basis to select items from that list, on a quarterly basis, and that this would be done with the understanding --

Commissioner Yaki: For which quarter?

Chairman Reynolds: For four quarters.
COMMISSIONER YAKI: You vote on a quarterly basis for what?

COMMISSIONER GAZIANO: For the next --

COMMISSIONER YAKI: For the following quarter.

CHAIRMAN REYNOLDS: Right.

COMMISSIONER YAKI: So when are we going to vote on the topics for first quarter '09?

CHAIRMAN REYNOLDS: It would have to be soon.

(Laughter.)

COMMISSIONER GAZIANO: August perhaps?

COMMISSIONER HERIOT: Let's put it on the August list.

VICE CHAIR THERNSTROM: Put it on the August agenda.

CHAIRMAN REYNOLDS: August?

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: Let's go.

CHAIRMAN REYNOLDS: Getting back --

COMMISSIONER YAKI: I just wanted clarification.

CHAIRMAN REYNOLDS: Okay. That's fine.

Okay. So --
COMMISSIONER GAZIANO: And we can add and subtract each quarter to that.

COMMISSIONER YAKI: I'm going to ask the Staff Director to include in there the list of all previously approved and unscheduled topics from 2008 and 2009.

CHAIRMAN REYNOLDS: I consider that a friendly amendment. I hope that there is not objection to it.

COMMISSIONER MELENDEZ: One question.

CHAIRMAN REYNOLDS: Do you object?

COMMISSIONER MELENDEZ: No, I just have one question. As far as notifying the people that appear before us on panels, is that an adequate time to do that? I mean, let's say we have one six months down the road and would you notify them today, giving them time so that they should schedule to come here, or is three months enough time for them to, you know, come here? Was that helpful in the old way, but did we ever notify them way ahead of time or --

CHAIRMAN REYNOLDS: I don't believe that we -- we may have had a list that went out a year, but I don't believe that --

COMMISSIONER MELENDEZ: We notified people that far in advance?
CHAIRMAN REYNOLDS: No.

COMMISSIONER MELENDEZ: Okay.

VICE CHAIR THERNSTROM: Question. How many briefings -- I mean, we settled on very few briefing topics in the course of a whole year, and we're making this into a big fuss about the list.

CHAIRMAN REYNOLDS: That is true.

COMMISSIONER GAZIANO: That is true.

COMMISSIONER HERIOT: Well, let's just vote then.

CHAIRMAN REYNOLDS: Okay. Let's vote all in favor. Please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Pete, you still there?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER YAKI: Zip, no, no.

COMMISSIONER MELENDEZ: No.

CHAIRMAN REYNOLDS: Abstentions?

(No response.)

CHAIRMAN REYNOLDS: Okay. Please look --

STAFF DIRECTOR DANNENFELSER: Mr. Chairman, if I could again maybe adjust the narrative again for the 2009 budget if necessary to reflect --

CHAIRMAN REYNOLDS: Yes.
STAFF DIRECTOR DANNENFELSER:  -- the change in the --

CHAIRMAN REYNOLDS:  Yes.  Okay.  Please let the record reflect that Commissioners Melendez and Yaki voted against the motion.  The remaining Commissioners voted in favor.  The motion carries.

Okay.  I also move that we amend our AIs to reflect the new process that we just voted on.  Is there a second?

COMMISSIONER GAZIANO:  Second.

CHAIRMAN REYNOLDS:  Discussion?

(No response.)

CHAIRMAN REYNOLDS:  All in favor, please say aye.

(Chorus of ayes.)

COMMISSIONER YAKI:  No.

COMMISSIONER MELENDEZ:  No.

CHAIRMAN REYNOLDS:  Abstentions?

(No response.)

CHAIRMAN REYNOLDS:  Okay.  Commissioners Yaki and Melendez voted against.  The remaining Commissioners voted for, and the motion passes.

Next up, okay.

VI.  PROGRAM PLANNING:  BRIEFING REPORT ON RACIAL CATEGORIZATION IN THE CENSUS
CHAIRMAN REYNOLDS: I move that in lieu of the Census report findings and recommendations that were circulated by the Staff Director with our meeting materials last week the Commission instead consider the revised findings and recommendations circulated to Commissioners on July 8th. If this motion is adopted pursuant to our practices, we will vote up or down on each finding and recommendation. There will be a discussion on each finding and recommendations, and the Commissioners, of course, are free to amend, delete, replace the revised findings and recommendation.

Is there a second?

COMMISSIONER GAZAINO: Second.

CHAIRMAN REYNOLDS: Discussion.

COMMISSIONER MELENDEZ: Yes, I have a question. How much input have we received as far as from the Census Department with those committees that they have that look into each one of the different categories? For example, the Native Hawaiians have a committee that gives recommendations back to the census. The Hispanic people, I think they have one also.

So have we considered what they've said? I mean, some of those could say, well, we wanted to
keep it the same as last year. Are we saying that
we're just kind of disregarding what these minority
categories the people there are actually saying?

I'm not sure. We can give
recommendations, but I just want to make sure that we
are taking into account what some of these groups are
saying to us.

CHAIRMAN REYNOLDS: Any discussion?

(No response.)

CHAIRMAN REYNOLDS: Okay. I will march
down the findings.

COMMISSIONER GAZIANO: Can we vote on the
motion to substitute first?

VICE CHAIR THERNSTROM: Yes, we have to.

COMMISSIONER GAZIANO: I don't think so.

I think --

COMMISSIONER YAKI: There's a motion to
substitute these. The motion said then we will go down
one at a time.

CHAIRMAN REYNOLDS: And vote one at a
time.

COMMISSIONER GAZIANO: So we have a motion
that we're going to be discussing these rather than
the other ones.

Vice CHAIR THERNSTROM: That's all. It's
a procedural motion.

COMMISSIONER YAKI: I would be to differ. I think if you are moving to substitute these findings for other findings, even if you are going to then subsequently discuss those findings, you are impliedly violating our AI in which we have to go through it one by one.

COMMISSIONER GAZIANO: No, the motion included that we would go through one by one.

COMMISSIONER YAKI: I don’t know. I think that’s a technical issue. That’s wrong. You have to substitute them one at a time.

COMMISSIONER GAZIANO: That’s not what the motion said.

COMMISSIONER YAKI: I know that’s not what the motion says. I think technically it’s incorrect. I think there’s a substantive component to it.

COMMISSIONER GAZIANO: Call the question.

COMMISSIONER YAKI: Okay. Let’s vote. Calling the question.

CHAIRMAN REYNOLDS: Hold on. Put your rule books back in your pockets. Mr. Melendez.

COMMISSIONER MELENDEZ: We asked the question whether or not -- the broader questions would be after we start going through the recommendations on
the specific recommendation or should we ask those before?

CHAIRMAN REYNOLDS: Well, I opened the floor for discussion before marching through --

COMMISSIONER MELENDEZ: Okay. Well, I'm still in that mode.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER MELENDEZ: The question I asked was did our staff get any input from the Census Advisory Committees on race and ethnicity into this product that we're --

COMMISSIONER GAZIANO: Well, we had the Director and the former Director of the Census Bureau testify at the briefing that we held that informed this report, and then we also had a period after the briefing for people to submit information.

COMMISSIONER YAKI: And have they gone over the substitute motion? Were they allowed to look at and comment on the substitute motion?

COMMISSIONER GAZIANO: Was who allowed to comment?

VICE CHAIR THERNSTROM: That's not part of our process.

COMMISSIONER YAKI: I'm just wondering.

COMMISSIONER GAZIANO: No, I'm wondering
who you're asking was who allowed to look at the substitute motion.

COMMISSIONER YAKI: Anyone in the Census Bureau. They are allowed to look at our findings or recommendations. Of course they are. So just --

COMMISSIONER HERIOT: Before we adopt them?

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: Well, I was just pointing out that as a practice, that's not what we do. We don't circulate draft findings and recommendations to agencies.

COMMISSIONER YAKI: Okay.

COMMISSIONER GAZIANO: Call the question.

CHAIRMAN REYNOLDS: Hold on.

COMMISSIONER MELENDEZ: The real question is also do we actually need recommendations on this issue? It seems to be a real issue that needs a lot more expertise, comments. I know that even when Commissioner Braceras was on board and we started to discuss the Hispanic situation, she was adamant about changing, you know, what was in the previous year.

So I know that it gets to be a real contentious issue, and we don't even have a Hispanic person on the Commission anymore as far as their
input, but I know at the time we had talked about
that, she was real adamant on her position which may
not coincide with what we're recommending here. But
that's all I'm saying.

So I guess we can go through the points as
we get down into the specifics.

CHAIRMAN REYNOLDS: Okay. Well, we've had
input from the Census Bureau, and I suggest that we
march through the findings, and to the extent any
Commissioner feels strong enough to write something,
there's always dissenting and concurring opinions to
deal with perceived shortcomings in the document.

Okay. The first finding reads, "The
Census Bureau develops" --

COMMISSIONER GAZIANO: We have to vote on
the motion.

VICE CHAIR THERNSTROM: We have to vote on
the motion.

COMMISSIONER YAKI: There's a call of the
question. I'd like it --

CHAIRMAN REYNOLDS: I'm sorry. I'm sorry.

COMMISSIONER YAKI: -- to be a roll call
on the call of the question.

CHAIRMAN REYNOLDS: I'm sorry.

Commissioner Yaki, I am not an expert on the rules.
Please explain your request.

COMMISSIONER YAKI: Call the question requires two-thirds to close debate. I had some questions, but apparently Commissioner Gaziano or Commissioner Gaziano --

COMMISSIONER GAZIANO: I remove my motion to call the question.

CHAIRMAN REYNOLDS: Yes. Let's put the rule books back in your pocket, folks. It will just tie us up and keep us here longer than we should be. If you have a question, Commissioner Yaki, please ask it.

COMMISSIONER YAKI: Yes. I want to know what kind of legal review was done of the substitute motion package by staff.

CHAIRMAN REYNOLDS: Legal of the substituted findings and recommendations?

COMMISSIONER YAKI: Yes, by the staff.

COMMISSIONER GAZIANO: What legal review is normally done?

COMMISSIONER MELENDEZ: I think he's referring to the defame and degrade legal sufficiency, affected agency and external reviews that are supposed to be done.

COMMISSIONER YAKI: Well, no, that's for
the whole report. I'm just talking about whether or not these findings, given as extensive as they are were reviewed for their legal integrity by the staff.

CHAIRMAN REYNOLDS: Okay. Where is Mr. Blackwood?

Well, first of all, Staff Director, is that an appropriate -- is that something that we would do under these circumstances, run it back through OGC?

STAFF DIRECTOR DANNENFELSER: I don't believe it's normal when the Commissioners are offering substitute motions at a meeting that they go through legal review before the Commissioners offer -- not necessarily as a matter of course.

CHAIRMAN REYNOLDS: Commissioner Kirsanow, are you sneezing?

(Laughter.)

COMMISSIONER KIRSANOW: No. Forget it.

(Laughter.)

COMMISSIONER GAZIANO: Mr. Chairman, that seems entirely right. We've made motions all the time to substitute recommendations and findings, and we don't halt them for subsequent legal review.

CHAIRMAN REYNOLDS: We are responding to the question.

STAFF DIRECTOR DANNENFELSER: Some of
these are very spontaneous motions that are offered in
the course of the meeting.

CHAIRMAN REYNOLDS: Mr. Blackwood.

MR. BLACKWOOD: This is Mr. Blackwood.

No, we don't conduct legal sufficiency review of the
findings and recommendations or any amendments
thereto.

COMMISSIONER YAKI: Okay. That's all I
wanted to know.

CHAIRMAN REYNOLDS: Any other questions?

(No response.)

CHAIRMAN REYNOLDS: All right. The first
finding: "The Census Bureau" --

COMMISSIONER HERIOT: We have to vote on
the motion.

(Laughter.)

CHAIRMAN REYNOLDS: Okay. All in favor
say aye.

(Chorus of ayes.)

COMMISSIONER YAKI: No.

COMMISSIONER MELENDEZ: Opposed.

CHAIRMAN REYNOLDS: I'm sorry?

COMMISSIONER MELENDEZ: No.

CHAIRMAN REYNOLDS: Okay. Pete?

VICE CHAIR THERNSTROM: Pete, it's just
voting on calling the question.

COMMISSIONER YAKI: No, no.

COMMISSIONER HERIOT: It's voting on the motion.

COMMISSIONER GAZIANO: Voting on substituting these.

VICE CHAIR THERNSTROM: Oh, substituting.

Okay.

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: All right. Let the record reflect that Commissioners Melendez and Yaki voted against the motion. The remaining Commissioners voted for it and the motion passes.

Next up is voting on Part A of the document. I move that the Commission approve Part A, the body of the document.

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: Okay. Commissioner Melendez?

COMMISSIONER MELENDEZ: No, I'm just going forward. Did you call for the question?

CHAIRMAN REYNOLDS: Okay. Let's vote.
All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

(No response.)

CHAIRMAN REYNOLDS: Abstentions?

(No response.)

CHAIRMAN REYNOLDS: Commissioner Yaki, what's your position?

COMMISSIONER YAKI: On all the findings?

CHAIRMAN REYNOLDS: Part A.

COMMISSIONER YAKI: I'm abstaining.

CHAIRMAN REYNOLDS: Okay. Commissioner Kirsanow?

COMMISSIONER KIRSANOW: I'm sorry. I had to jump off for a moment. I missed the last discussion.

CHAIRMAN REYNOLDS: Okay. We're voting on Part A, the body of the document. How do you vote?

COMMISSIONER KIRSANOW: Give me one second.

I'm going to have to jump off for a second. I'm going to have to come back.

VICE CHAIR THERNSTROM: All right. So he --

COMMISSIONER YAKI: He's not voting on
this.

COMMISSIONER YAKI: He's absent.

COMMISSIONER GAZIANO: He's not voting.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: Or maybe we can hold it open in order to record his vote.

VICE CHAIR THERNSTROM: No, no. He's just absent.

COMMISSIONER GAZIANO: Okay.

VICE CHAIR THERNSTROM: Let's move on.

CHAIRMAN REYNOLDS: Okay. Let the record reflect that Commissioner Yaki voted against.

Commissioner --

COMMISSIONER YAKI: I abstained.

COMMISSIONER HERIOT: He abstained.

CHAIRMAN REYNOLDS: Oh, I'm sorry. That he abstained --

COMMISSIONER YAKI: I will be voting against later.

CHAIRMAN REYNOLDS: Commissioner Kirsanow did not participate in this particular vote, and the remaining Commissioners voted in favor.

Did I get that right?

VICE CHAIR THERNSTROM: Yes, you got it right.
CHAIRMAN REYNOLDS: Okay. Where am I?

Findings?

The first finding reads as follows: "The Census Bureau develops its questions on race, ethnicity and ancestry in compliance with Office of Management and Budget standards for maintaining, collecting, presenting federal data on race and ethnicity. Those standards provide a minimum standard for maintaining, collecting, and presenting data for all federal reporting purposes. Among other things, the standards provide the minimum categories for data on race and ethnicity for federal statistics. Program administrative reporting and civil rights compliance are defined as follows. American or Alaska Native, Asian, black or African American, Hispanic or Latino, Native Hawaiian or other Pacific Islander, and white."

COMMISSIONER YAKI: I think you misstated the first one. American Indian or Alaskan Native. I think you left out the word "Indian."

CHAIRMAN REYNOLDS: Okay. Thank you for the correction.

"Respondents shall be offered the option of selecting one or more racial categories."

The next standard is whenever feasible a two-question format for reporting race and ethnicity
shall be used. When this is done, the question on
ethnicity should come first and must contain at a
minimum the following categories: Hispanic or Latino,
and not Hispanic or Latino. Under these circumstances
the race question should include at a minimum American
Indian or Alaskan Native, Asian, black or African
American, Native Hawaiian or other Pacific Islander
and white.

Number two, in the 2000 --

COMMISSIONER HERIOT: We need to vote on
that one.

COMMISSIONER GAZIANO: We need to vote on
that one.

CHAIRMAN REYNOLDS: Oh, I'm sorry. Is
there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor say aye.

(Chorus of ayes.)

COMMISSIONER KIRSANOW: Aye.

Mr. Chairman, I'm going to have to jump
off permanently now.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: Okay.
CHAIRMAN REYNOLDS: Thank you.

VICE CHAIR THERNSTROM: Thanks.

CHAIRMAN REYNOLDS: Abstentions?

COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Objections?

(No response.)

CHAIRMAN REYNOLDS: Okay. Let the record reflect that -- I'm sorry. Commissioner Yaki?

COMMISSIONER YAKI: I abstain.

CHAIRMAN REYNOLDS: Okay. We have two abstentions with Commissioners Yaki and Melendez. The remaining Commissioners, including Commissioner Kirsanow, voted in favor. The motion carries.

Please note that Commissioner Kirsanow is no longer on the line.

The second finding reads as follows: "In the 2000 census the Commission bureau included the five categories mandated by OMB and, in addition, provided a check box for some other race. The some other race category has been controversial, and the Census Bureau considered discontinuing its use in the 2010 census. The question on Hispanic origin was separate. Respondents were permitted to check as many categories as they thought applied to them."

May I have a second?
VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER MELENDEZ: Opposed.

COMMISSIONER YAKI: Abstain.

COMMISSIONER GAZIANO: Point of order. Is it possible -- I think Pete has -- Pete, do you have a copy -- oh, he's off. I'm sorry.

Since we all have a copy of this before us, if I move that you don't need to read these --

VICE CHAIR THERNSTROM: No.

COMMISSIONER GAZIANO: -- and that we consider them --

VICE CHAIR THERNSTROM: They need to be read into the record.

COMMISSIONER GAZIANO: By motion could we dispense with the requirement that we read them into the record?

CHAIRMAN REYNOLDS: I think that we would have to have a vote.

COMMISSIONER GAZIANO: I understand, but
if I made a motion and it received a majority, could we?

CHAIRMEN REYNOLDS: I don't see anything in the reg.

VICE CHAIR THERNSTROM: In the past we decided these have to be read into the record.

CHAIRMEN REYNOLDS: We have. We have that rule.

COMMISSIONER GAZIANO: Can't you dispense with any rule if it's not an AI?

CHAIRMEN REYNOLDS: Are we taking a break?

COMMISSIONER YAKI: No, we'll just be right back.

COMMISSIONER GAZIANO: I move that the --

CHAIRMEN REYNOLDS: Do you want to stay and vote on this?

COMMISSIONER YAKI: No.

CHAIRMEN REYNOLDS: Okay. Make your motion.

COMMISSIONER GAZIANO: Well, has anyone noted the absence of a quorum? I don't think anyone -- maybe they're coming back.

VICE CHAIR THERNSTROM: Well, we don't have a quorum at this minute though.

COMMISSIONER GAZIANO: Did they state on
the record they're not coming back?

VICE CHAIR THERNSTROM: No, but still --

COMMISSIONER GAZIANO: Then we don't know they're not coming back.

CHAIRMAN REYNOLDS: Whoa, whoa.

VICE CHAIR THERNSTROM: We can't take a vote.

COMMISSIONER GAZIANO: We may have some people not voting.

CHAIRMAN REYNOLDS: Does Mr. Schmechel's presence indicate they're returning?

(Laughter.)

CHAIRMAN REYNOLDS: He left his phone. I think that's a strong indication.

COMMISSIONER GAZIANO: Yes, we have people going in and out, and if someone wants -- unless we know they're not returning, then I think we can proceed.

CHAIRMAN REYNOLDS: Mr. Blackwood, would you care to --

MR. BLACKWOOD: There is no quorum.

VICE CHAIR THERNSTROM: Yes, there's no quorum. We can't take a vote.

CHAIRMAN REYNOLDS: Okay.

MS. MONROIG: Now we have a quorum.
CHAIRMAN REYNOLDS: Please make your motion.

COMMISSIONER GAZIANO: I move that the substitute recommendations and findings we've adopted be put into the record in written form and that we then vote of them as they appear before us one by one.

COMMISSIONER YAKI: Mr. Chair.

CHAIRMAN REYNOLDS: Does it relate to this motion?

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: Okay. I provide the second.

Yes.

COMMISSIONER YAKI: I'd like 30 seconds to talk to you.

CHAIRMAN REYNOLDS: All right.

(Whereupon, the foregoing matter went off the record at 12:42 p.m. and went back on the record at 12:45 p.m.)

COMMISSIONER GAZIANO: Are we back on the record?

CHAIRMAN REYNOLDS: Where is the Vice Chair? Oh, yes, we are.

COMMISSIONER GAZIANO: I withdraw my motion that the reading be substituted and instead I
just ask unanimous consent that all the little sub Is
and 2s be put in their proper place so that the
official record reflects what's before us on paper,
but that we have --

CHAIRMAN REYNOLDS: So, for example, 1(a),
1(b).

COMMISSIONER GAZIANO: And the footnotes
showing the record excerpts and all of that.

CHAIRMAN REYNOLDS: Yes. Any objection?
I second. Any objection to that?

COMMISSIONER HERIOT: Do we have to vote
on that?

CHAIRMAN REYNOLDS: Well, we'll see. Are
you comfortable with it?

COMMISSIONER YAKI: Go ahead.

CHAIRMAN REYNOLDS: I take that as a yes.

COMMISSIONER GAZIANO: Unanimous consent.

Unanimous consent.

CHAIRMAN REYNOLDS: All right.

COMMISSIONER GAZIANO: We voted on two.

We're on three; is that right?

COMMISSIONER MELENDEZ: I don't think we
voted on two.

CHAIRMAN REYNOLDS: We did vote on two.

Yaki abstained. Melendez objected.
Okay.

COMMISSIONER YAKI: On number two I want to change my vote to object.

CHAIRMAN REYNOLDS: Okay. Please let the record reflect that Commissioner's Yaki and Melendez objected to the motion. The remaining Commissioners voted for it. Once again, Commissioner Kirsanow is no longer participating.

"Finding number three for the 2010 census, the Census Bureau has developed questions on race and ethnicity which will be used in the 2008 dress rehearsal. The questions on race, ethnicity, and ancestry from the 2008 American Community Survey which replaces the long form census questionnaire is also administered by the Census Bureau. Because a massive undertaking like the census takes years of preparation, it would probably not be feasible to alter these questions at this point except for extraordinary cause."

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor please say aye.
(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER MELENDEZ: Abstain.

COMMISSIONER YAKI: Abstain.

CHAIRMAN REYNOLDS: Okay. The two abstentions are Commissioners Melendez and Yaki. The remaining Commissioners voted in favor. The motion carries.

Number four, the separate question four, "Hispanic origin has been a part of the census since 1970 when it was added to the long form. In 1980 it became a part of the short form as well."

Is there a second?

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Any objections?

COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Okay. Commissioner Melendez abstains. The remaining Commissioners voted in favor of the motion. The motion carries.

Finally, number five, "even though Title
VII of the Civil Rights Act of 1964 prohibits discrimination on the basis of religion and employment, neither the census nor the American Community Survey collects data on religious identification or practice under 13 USC Section 221(c). Even if the Census Bureau were to include such questions, respondents could not be penalized for failure to answer."

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All -- okay. Does he want to vote on this? Good enough for me. Thank you.

All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Okay. He abstains.

We have two abstentions, Commissioners Yaki and Melendez. The remaining Commissioners vote in favor of the motion. The motion carries.

The sixth and final finding, "some Americans regard their race, ethnicity and ancestry to be a private matter. Nevertheless, under current law
they are required to respond to a census questionnaire and to do so truthfully."

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: Objections?

COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Yes.

VICE CHAIR THERNSTROM: The vote on number six.

CHAIRMAN REYNOLDS: Number six.

COMMISSIONER YAKI: Oh, no.

CHAIRMAN REYNOLDS: Okay. Commissioner Yaki --

COMMISSIONER YAKI: I'm curious. Which one? Wait a minute. Go.

CHAIRMAN REYNOLDS: Commissioner Yaki voted against the motion. Commissioner Melendez abstains. The remaining Commissioners voted in favor of the motion. The motion carries.
Now we are up to the recommendations. The first recommendation reads, "Given the term race, ethnicity, and ancestry have no fixed or agreed upon meaning in the public mind, we recommend that the Census Bureau avoid using them as separate terms in the next census. For example, some people regard Hispanic as a race; some do not. Some may refer to a particular individual's Hispanic background as his ethnicity, and others may reject the term on the ground that it implies something untrue about the individual's cultural traits as opposed to his ancestor's cultural traits. Such person may prefer the term ancestry. We urge that questions about race, ethnicity, ancestry be phrased in such a way as to include all three concepts, such as what is your race, ethnicity or ancestry."

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion? Yes.

COMMISSIONER YAKI: I'm going to give just a brief comment based on items one through seven, which may be supplemented further, but I have real deep objections to these new recommendations on a number of different levels.

I think the first level is that whether we
like filling out the census or not, the fact of the matter is that it is an enterprise that is rigorously tested using focus groups, using a lot of advisory committees, using social scientists, using statisticians, and most importantly, and a lot of testing to determine accuracy in the census.

We are treading on ground that we are absolutely unqualified to do from the bare bones of a briefing that had as among its so-called experts Ward Connolly.

It just does not make any sense that we would, based on the record that was produced at that meeting, without having access to all of the reports, all of the study groups, all the focus groups, all the different testing scenarios that have gone on year after year after year in the Census; for us to substitute our judgment based upon our notions about what race, ethnicity or ancestry should be in terms of what the Census focus and purpose are, and that is to get an accurate count of people who live and reside in this country.

I would just strongly object to the idea that we can, based on this record, based on our own experience, be able to substitute our judgment for that of the Census Bureau's many, many, many testing
procedures over the years, especially with regard to
the issue of race.

I know that somewhere in the back of my
mind I hear former Commissioner Braceras screaming at
me to say that she would completely object to the
moving of Hispanic into some other undefined, unqualified, and untested category, and as much as
former Commissioner Braceras and I disagree about a
lot of things, we did agree very carefully on this.

So I would just simply again state for the
record I'm going to voting no on each and every one of
these, and the principal purpose is that there is
fundamentally no good science behind what we are doing
today that has anything to do with what the purpose of
the census is supposed to do.

CHAIRMAN REYNOLDS: Vice Chair.

VICE CHAIR THERNSTROM: Well, Commissioner
Yaki, it seems to me that what you're basically saying
is that because the Census Bureau has spoken after
doing focus groups and et cetera, that we never should
have held a briefing to begin with because the issues
before the Census have been settled, and that
furthermore, that the huge scholarly literature that
does exist on the census, a literature in which the
authors come to judgments of a variety of sorts that
are, you know -- that address exactly the issues these recommendations address, that that scholarly literature is also somehow illegitimate because if it disagrees with what the Census has done after all its work, then you know, kind of what right do these scholars have to speak up?

I mean --

COMMISSIONER YAKI: That's not what I'm saying at all, Commissioner Thernstrom.

VICE CHAIR THERNSTROM: Okay.

COMMISSIONER YAKI: What I am saying is precisely the first point that you made in your remarks, and that is we could have had the opportunity to have that kind of a hearing, not a briefing, a hearing.

I mean, let me just put it as bluntly as I can. I thought that the testimony of Mr. Connolly was simply a waste of air because all he simply said was we're all one country and we ought to do away with the whole thing.

That has nothing whatsoever to do with the kind of hard research and conclusions that you're talking about. I agree that there can be a place and a position for us to make statements about the census. What I am simply saying is that this document

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is not that place.

We did not have those kinds of scholars.

We did not have that kind of research available to us.

We had two or three people, one from the Census Bureau, Ward Connolly, a couple other folks. We didn't have access to that kind of literature.

I do not believe the census infallible. I was one of the folks, along with some people who are here in this room today, in the '80s who was arguing for how to more accurately measure the Asian American community, the Asian Pacific community and how many checkoffs needed to be there and what the format should be for that.

And in that process we worked with the Census Bureau to develop what we believed was a more accurate means of gauging the true diversity and numbers within the Asian Pacific community of each individual subgroup within there. I'm not saying they're perfect. What I am saying is that to boldly go where no study has gone before based on nothing in the record that would enable us to reach those conclusions other than whatever, I think is wrong.

There is a time and a place, and there is a way to do it. This is not the way to do it.

CHAIRMAN REYNOLDS: Okay. Unless there
needs to be further discussion, we're ready to vote. All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: No.

CHAIRMAN REYNOLDS: Okay. Commissioners Yaki and Melendez voted against the motion. The remaining Commissioners voted in favor. The motion passes.

Number two, "The opportunity to select multiple responses to race, ethnicity and ancestry questions will tend to inflate the number of responses in each category relative to what would have been if respondents had been permitted to select only one. We nevertheless believe that the opportunity for multiple responses is necessary for an accurate portrait of our nation's complex racial, ethnic and ancestral heritage. We, therefore, recommend that the Office of Management and Budget standards on this issue be retained."

Is there a second?

VICE CHAIR THERNSTROM: I second it.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor say aye.
(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER MELENDEZ: Opposed.

CHAIRMAN REYNOLDS: Why don't you just tape --

COMMISSIONER HERIOT: For the record you should say he lifted up a piece of paper that says "no" written on it.

CHAIRMAN REYNOLDS: Okay. Commissioners Melendez and Yaki voted against the measure, against the motion. The remaining Commissioners voted for. The motion carries.

Recommendation number three, "The current separate question on Hispanic or Latino ethnicity of the census and ACS no longer serves the purposes it once did. Moreover, it may cause harm by suggesting that the Hispanic/Latino ethnicity is somehow uniquely significant and by distorting the number of respondents who report they are Hispanic or Latino relative to the number who would have responded that way if Hispanic/Latino had simply been one among many racial, ethnic, or ancestral choices before them. In 1970 when respondents were required to choose only one box, some argue that Hispanics and Latinos could be of any race and that a single question would force..."
Hispanics and Latinos to choose between their race and their Hispanic or Latino ancestry or ethnicity. Since respondents may now select as many respondents as they wish, this is no longer a problem. We, therefore, recommend that the Office of Management and budget standards be amended to discontinue the two question format, and that instead Hispanic/Latino be added to the responses to the general question on race, and that the question on race be renamed a question on race, ethnicity or ancestry."

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER MELENDEZ: Opposed.

CHAIRMAN REYNOLDS: Commissioners Yaki and Melendez oppose the measure, the motion. The remaining Commissioners voting for it. The motion passes.

We're up to recommendation number four. "Although attempts have been made to abolish the 'other race category,' the 'other race' category
sometimes by those who have a stake in making one or more of the specific racial categories seem larger than they would otherwise be, we recommend that it be retained by the Census Bureau as another race, ethnicity or ancestry category, given that respondents are currently required by law to answer all questions accurately and to the best of their knowledge, and that even without that law, most respondents strive for accuracy. We believe that it would place an unfair burden on them to require that they give an answer they believe to be inaccurate."

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

I would like to offer a friendly amendment. Bear with me. What is basically a parenthetical that begins "sometimes by those who have a stake in making one or more of the specific racial categories seem larger than they would otherwise be," I would ask that we just delete that language.

VICE CHAIR THERNSTROM: That's fine with me.

CHAIRMAN REYNOLDS: Any other comments?

(No response.)

CHAIRMAN REYNOLDS: Okay. The friendly
amendment was accepted. Do we need to vote on this, the deletion?

COMMISSIONER GAZIANO: Is there any objection to your friendly amendment?

VICE CHAIR THERNSTROM: Yes. No, we don't need to, a friendly amendment. We just need to simply vote on it.

CHAIRMAN REYNOLDS: Do you object to it?

COMMISSIONER YAKI: I'm going to vote against it, but I'll let you make it.

CHAIRMAN REYNOLDS: Okay. Thank you.

COMMISSIONER MELENDEZ: Opposed.

CHAIRMAN REYNOLDS: You're opposed to the friendly amendment?

COMMISSIONER MELENDEZ: Opposed to the whole thing.

(Laughter.)

VICE CHAIR THERNSTROM: That's different. We're going to vote on the whole thing.

CHAIRMAN REYNOLDS: We're going to vote on it.

VICE CHAIR THERNSTROM: This is just a question of deleting that rather --

COMMISSIONER MELENDEZ: Fine.

CHAIRMAN REYNOLDS: Okay, all right. Yes.
All in favor of the motion as amended, please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: All those --

COMMISSIONER MELENDEZ: Oppose.

CHAIRMAN REYNOLDS: Thank you.

Commissioners Yaki and Melendez oppose the motion. The remaining Commissioners vote in the affirmative of the amended motion. The motion as amended passes.

We're up to number five. "The current questions on the census give respondents who identify themselves as American Indian or Alaska Native, Asian Native Hawaiian or other Pacific Islander or Hispanic or Latino the opportunity to specify any specific subgroup to which they belong. By denying this opportunity to those who identify themselves as black, African American, or negro or those who identify themselves as white, some may be left with the impression that subgroups' ethnicities and ancestries within these categories are less important, less worthy of attention or are unlikely to suffer from discrimination on account of national origin. These are not impressions that the Census Bureau should wish to leave. We, therefore, recommend that the Census
Bureau give those who check the box with black, African American, or negro or white analogous opportunities to register a subgroup, ethnicity or ancestry within those categories. Possible subgroups for the former might include Ethiopian, Haitian, Dominican, or other Caribbean possible subgroups for the latter might include Irish, Swedish or Arab. All groups should be given an open ended other subgroup category in which respondents can write in their subgroup ethnicity or ancestry."

Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion.

Commissioner Yaki.

COMMISSIONER YAKI: Just to supplement my earlier remarks, if there is one recommendation that exemplifies what I believe to be the tragedy of these recommendations it's number five because I cannot possibly see how this could be implemented in any coherent, statistically accurate form, and it seems its only purpose is to attempt to really destroy the categorization by essentially parroting it by going in this direction.

I think that we have a lot of important information that these kinds of categories provide to
the federal government, not the least of which are programs that are based upon accurate counts within these communities for health care, for refuge aid, for many other forms of federal assistance, and this would just create, I think, utter chaos within these categories, and perhaps that is the intention. I don't know. I would assume good motives by the drafters, but I would simply say the actual result will be quite, I think, alarming.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Okay. As somebody who has worked with census data a lot, one of the frustration in, let's say, writing high school completion rates for various groups or unemployment rates or household wealth or you name it is that the categories are so crude so that you really do, it seems to me, or those of us who are scholars do really want to know whether the Ethiopian, the Haitian, the Dominican, other caribbean data look different than those data that are associated with the descendants of American slaves.

And so what's being asked here is a refinement of the demographic picture in America that it seems to me can only enhance. That's very much in keeping with the purpose of the census and can only
enhance our knowledge.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: I'm glad that Commissioner Yaki withdrew his suggestion that the most likely reason is to do mischief, and I just want to be clear that I think the recommendation should be adopted for the very reason that he thinks it's valuable in other categories, and that it would certainly improve the accuracy of medical research as well as the other topics that the Vice chairman mentioned.

VICE CHAIR THERNSTROM: The point that I made holds, of course, with white subgroups as well. There are huge differences in social mobility in America between southern Europeans and northern Europeans. I mean, this is potentially invaluable information about the fabric of America over time, changing the fabric of America over time.

CHAIRMAN REYNOLDS: Additional questions, comments?

COMMISSIONER MELENDEZ: yes, the question I have is and I think one of the main issues here is the use of the census data itself. I mean, it's one thing to say that all we're doing is taking a snapshot of how many people there are in these different
categories, but the other question, I think the worry
is that by juggling the options for people checking
different boxes, does it have anything to do with
funding that people receive by agencies that use
census data to distribute funding and things like
that, which then you'll hear a real outcry from
Americans in any of these groups that for some reason
census data is used in that manner?

So I think the only thing, I don't think
that we -- you know, people put things in place, but I
don't think they adequately look at the impact to all
of those different questions like that, that it will
impact people out there. I don't know if that has
been thoroughly looked at or at least in this
discussion or in these recommendations.

Just for the record I just wanted to say
that.

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

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections?

COMMISSIONER MELENDIZ: Opposed.

COMMISSIONER YAKI: Nope.

CHAIRMAN REYNOLDS: Commissioners Yaki
and Melendez oppose the motion. The remaining
Commissioners vote in favor. The motion passes.

Recommendation six, "Because many people regard their race, ethnicity or ancestry as a private matter, we believe that those who do not wish to disclose such personal information to the Census Bureau should be treated with dignity and respect. Current law states that 'no person shall be compelled to disclose information relative to his religious beliefs or to membership, any religious body.' We'd recommend that Congress amend Subsection 221(c) to add the same protection against compelled disclosure of information on race, ethnicity or ancestry. Currently the Census Bureau has opted not to ask a question on religion, but there is nothing in 13 USC Section 221(c) that prevents it from doing so, and under the amendment we recommend nothing would prevent it from asking a question on race, ethnicity or ancestry, providing that no penalty would attach to the failure to respond. No person should be penalized for acting on his belief that race, religion, ethnicity and ancestry are private matters and should be of no consequence to the federal government."

Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: Discussion?
Commissioner Yaki.

COMMISSIONER YAKI: One of the hallmarks of the census and why researchers often, as Commissioner Thernstrom well knows, have to wait quite a while to get certain kinds of census information is because it is regarded as extremely confidential, and there are a rigorous set of laws protecting the privacy of those who are answering it.

I believe that, again, what this does is simply undermine the accuracy of the count. It undermines federal programs designed to assist many individuals who would be identifying themselves in certain manners, and again, it doesn't seem to me to be based on any hard data or realization of what the census is used for and what its purpose is with regard to the information that it contains.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: There was certainly sufficient information filed in, for example, the census sampling case before the Supreme Court that a very high response rate can be statistically corrected for statisticians.

The main reason, I think to support this recommendation is stated on its face, but I do want to point out that it may actually improve the accuracy of
the data that's collected. There is anecdotal
evidence of people who are offended enough by the
question that don't want to risk penalties to give a
false answer if they are compelled to do so. Civil
disobedience, and under this, if this recommendation
were adopted, I don't see a strong argument that there
would be a statistically less reliable, but it might,
in fact, be statistically more reliable because you've
got an extremely high sample that you know is
voluntarily given.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Well, this is actually
one area that I actually know a little bit about.
There have been a number of studies done by the Census
Bureau looking at the question that Commissioner
Gaziano says about the accuracy of the response and
the willingness of people to self-identify on the
form, and there have been studies done and conducted
that show that your accuracy rate is infinitely higher
through compulsory identification than not, and that
the error rates are significantly different, and
again, it goes to why on some of these things it's a
question of if it's not broke don't fix it.

But I realize that there are ideological
reasons that some people have for pursuing the agenda,
but in terms of, again, the purpose of the census, the
use of the census, these recommendations do nothing
but undermine and work to the disadvantage of many
minority and ethnic communities in this country.

   CHAIRMAN REYNOLDS: Okay.

   COMMISSIONER GAZIANO: Just one final
point. I don't know whether other Commissioners share
my hope that the census would actually ask a religion
question, but again, with the understanding that it's
voluntary, and so I think it's sort of evident in this
recommendation that we in the Commission want to
improve the accuracy of the census, but also to
respect the dignity of those who don't want to respond
to such personal information.

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

   (Chorus of ayes.)

   CHAIRMAN REYNOLDS: Objections?

   COMMISSIONER MELENDEZ: Opposed.

   COMMISSIONER YAKI: Nope.

   CHAIRMAN REYNOLDS: Commissioners Melendez
and Yaki voted against the motion. The remaining
Commissioners voted for the motion. The motion
passes.

The final recommendation, recommendation
seven, reads as follows: "Two cautions are necessary. First, census data are not always the only source of reliable information. Census Bureau estimates of high school dropouts, for example, have been questioned by investigators using 'alternative data.' "Second, there are common methodological errors in employing the census data, errors in which social scientists are well aware, but attorneys, judges, and journalists far less predictably so, and thus, we recommend caution in, for instance, drawing conclusions about voter discrimination, specifically the under representation of groups in elected office without taking into account the age structure, citizenship rates, educational and income levels of the ethnic or racial group in question. Likewise conclusions about employment discrimination often rest on causal assumptions that are in reality simply correlations reflecting a host of factors that make for group differences in the labor pool for particular occupations. "Moreover, social scientists understand that comparing census data with other data sets that have employed different data collection methodologies is itself problematic. For example, a data set in which respondents are permitted to select only one
racial or ethnic group will not be easily comparable to census or other data in which multiple responses are explicitly permitted."

Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor please say aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections.

COMMISSIONER MELENDEZ: Opposed.

CHAIRMAN REYNOLDS: I'm not going to hold the sign. Commissioners Yaki and Melendez voted against the motion. The remaining Commissioners voted in favor. The motion carries.

Okay. Next up, the Omaha briefing.

VI. PROGRAM PLANNING: BRIEFING REPORT ON THE DELIBERATE CREATION OF RACIALLY IDENTIFIABLE SCHOOL DISTRICTS IN OMAHA, NEBRASKA

CHAIRMAN REYNOLDS: Okay. With respect to the Omaha briefing, I'm going to make a motion that we -- well, first, I move to vote on the Omaha briefing.

Is there a second?

VICE CHAIR THERNSTROM: Second.
CHAIRMAN REYNOLDS: Discussion? I'm sorry.

COMMISSIONER HERIOT: A motion to address something on the agenda?

VICE CHAIR THERNSTROM: Not to vote on. He made a motion to vote on the Omaha briefing, and we're going to have a discussion.

CHAIRMAN REYNOLDS: Right.

COMMISSIONER HERIOT: That's what the agenda already says.

CHAIRMAN REYNOLDS: Okay. Assuming it's a redundancy --

COMMISSIONER HERIOT: Okay. Then I'm for it.

COMMISSIONER GAZIANO: The motion is to discuss the Omaha report.

CHAIRMAN REYNOLDS: Yes. The floor is open.

COMMISSIONER HERIOT: Okay.

CHAIRMAN REYNOLDS: Since we have --

COMMISSIONER HERIOT: I can discuss.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: This is the appropriate time to talk about the substance of the report?
CHAIRMAN REYNOLDS: Yes.

COMMISSIONER HERIOT: I was not a big fan of the report. I think that I wouldn't be willing to sign onto most of the conclusions of the report, and I think it might be better and I suspect that we're not going to reach consensus in favor of that report; it may be better if we were simply to acknowledge the fact that this statute has been repealed and publish the transcript of the briefing rather than the proposed report.

CHAIRMAN REYNOLDS: Would you include statements, the statements that were --

COMMISSIONER HERIOT: As long as we're not endorsing anything that anybody is saying. If they have written statements, then I think it makes sense to include those. That's what the witnesses wanted to be remembered with, I suspect. It includes that and the transcript.

We should draw no conclusions, certainly not the conclusions that are in this report.

COMMISSIONER MELENDEZ: Is that a motion?

VICE CHAIR THERNSTROM: If it's a motion, I second it.

COMMISSIONER HERIOT: Yes, that's a motion.
VICE CHAIR THERNSTROM: I second it.

COMMISSIONER MELENDEZ: Just a comment. I support also not having any recommendations.

VICE CHAIR THERNSTROM: Yes, that's included in that.

COMMISSIONER MELENDEZ: What about the finding?

VICE CHAIR THERNSTROM: No.

COMMISSIONER HERIOT: No.

VICE CHAIR THERNSTROM: They're gone.

COMMISSIONER HERIOT: Everything is gone.

VICE CHAIR THERNSTROM: Gone.

COMMISSIONER MELENDEZ: Okay. I don't have a problem with the findings. I don't know how everybody else feels.

COMMISSIONER HERIOT: Including the executive summary and the general -- under my motion what we would publish would be the witnesses' statements as they submitted them, the transcript of the briefing, but with nothing form us suggesting that we believe anything. These are the facts. This is what happened.

COMMISSIONER GAZIANO: Is it worthy of actually publishing in paper form?

COMMISSIONER HERIOT: I think it should be
done electronically and not in paper form because there's no sense wasting money on paper.

CHAIRMAN REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Well, I would just like to point out the delicious irony here over the fact that I have said for years that what we should be doing with briefings is exactly what Commissioner Heriot is suggesting we do with Omaha, and that is to produce the documents, the statements, the transcripts.

It's interesting that when there's an indication that the majority may not like the findings or conclusions of a report that actually a minority may like, they then decide, well, why don't we do it that way. Why don't we just strip it all out and just put it all up there for people to draw their own conclusion.

I would just like to point that out as a very nice and delicious irony because that is exactly what I have been talking about for years. Because you do not have enough information in these briefings, in these records to do the kinds of findings and recommendations that you would choose to do.

The one time we did was because we were embarrassed by the Native Hawaiian report findings and

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recommendations. Actually we still did a recommendation on that because the majority wanted to, but even they couldn't stomach the findings which came out of some fifth grade notebook.

I mean, this to me is a situation where you had a legislature that had as its intent, intent, drawing school districts based on race for no purpose other than to draw it based on race. There were only, I'm sad to say, there were only three Commissioners at that hearing. That was Commissioner Taylor, Commissioner Melendez, and myself.

But I wanted to give credit to the Chair who with me wanted to do this hearing in the first place because of how outrageous the act was of the legislature of Nebraska in divvying up Omaha along these lines.

But I just want to say that I am just -- I've now gone beyond irony to just being appalled by the fact that when we have an opportunity, albeit many years later, you know, to make a statement about how we saw something that was happening that we believe was not right and that when we acted and we made a positive contribution to that dialogue, now we run away as fast as we can.

CHAIRMAN REYNOLDS: Okay. First off, this
is one of the few issues where I believe that we had a
very strong consensus across the ideological spectrum.

Now, you have in the past recommended that we issue
no findings of fact and recommendation. There are
times when we do, but I think as a general proposition
we should issue findings and recommendations. There
will be particular reports where there is a majority
of Commissioners that believe that it's appropriate
not to do so. This is one of those briefings. I
don't believe that this decision is in any way an
indication that a majority of Commissioners believe
that issuing findings and recommendations is a bad
idea.

Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes, let the record
reflect if the actual record of the event as
reflected in this report or otherwise were as
Commissioner Yaki says they are, I would be or
improving the findings and recommendations and issuing
them.

But my review of this report suggested
that the record was not so clear, and I just don't
have confidence based on this report to say that the
legislature, for example, did intend to carve out
racial districts. There seems to be some dispute
about that.

I have no confidence in this report that that is so. So I don't feel comfortable, but if that was the situation, I would certainly be with Commissioner Yaki in saying let's fix the reports.

But given that this legislation has been repealed, given that it's moot, given that the Commission may have had some positive influence in that, I think it's not worth the extra resources of the Commission to try to rewrite this report and sift through what is an historical muddle.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: One, maybe I'm just echoing what Commissioner Gaziano was saying here, that you know, first off, I just want to make sure that the record reflects that I do not agree with the characterization of what the Nebraska legislature did, Commissioner Yaki's characterization.

But, second, Commissioner Yaki is railing against majority vote. Yes, of course it's true that when you can get a majority of the Commission's members to decide to publish in truncated form, that's what should be done, and when only a couple of members of the Commission believe that, then they're outvoted, and that's just the way the world is.
COMMISSIONER YAKI: Oh, yes, we'll remember that.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Look. It seems to me, Commissioner Yaki, that this was a unique story, this briefing. At the time, yes, I did not go. I boycotted it. I regarded the Commission running out there as ambulance chasing, reacting to a news story. It was a one-day story. The legislative proposal couldn't, wouldn't survive for more than two seconds, didn't survive, and you know, it was a non-issue before we went out. It remained a non-issue. It was completely killed, and so there isn't any other briefing situation that's analogous.

And I stand -- it seems to me my original decision that I'm not going to participate in this has been shown to be a good one over time.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: This is a report produced by this Commission, by this Commission's staff with findings and recommendations. Aside from the fiasco with Hawaii, this Commission has approved every single report over the vote -- over my vote, usually with the vote of Commissioner Melendez when he came on. So there is a difference here, and that is
because of ideological reasons, we have decided to
reject the staff report of very safe findings and
recommendations on what happened in Omaha.

And maybe you thought it was ambulance
chasing. I don't know, but you weren't there. I was
there. There was a packed room in there. There was
tremendous visibility --

VICE CHAIR THERNSTROM: It was a non-
issue.

COMMISSIONER YAKI: -- and interest in
this. This was something that the Chair and I thought
would be a good thing. The Commission voted
unanimously, I believe, to have this kind of hearing.

It was in some respects to me one of the
better things that we have done in that it showed that
the United States Commission on Civil Rights still
cared about civil rights. And I don't care what you
want to say, but when a legislature draws a district
very carefully based on racial lines, I don't care
what they say their intent is, the clear result is one
that is based on purely racial lines.

I mean, the thing is, you know, do with it
whatever you want to do. I don't care. I think that
I wish this report had come out earlier to be more
relevant because I can tell you that we were getting
phone calls. I was getting phone calls from people in the Nebraska legislature, from the press wanting to know when our report was going to come out, how soon it would come out because they thought of its importance influencing the actual debates.

We missed an opportunity there. Is this moot by now? Of course it is, but it doesn't detract from what we did there, and what the Nebraska legislature tried to do there and how we responded.

So let's just get on with it and white wash the whole thing as the majority want to do.

VICE CHAIR THERNSTROM: I want to say one sentence.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Just for the record, I resent the characterization that for ideological reasons I am opposed to the publication of this report. That is not correct.

COMMISSIONER YAKI: I apologize.

COMMISSIONER HERIOT: One clarification here, just a statement. The Nebraska legislature did not, in fact, draw any lines here, and part of the problem with the report is that it misunderstands the amendment that was offered to that bill, and so just let the record reflect that the legislature did no
such thing.

CHAIRMAN REYNOLDS: All those in favor please vote aye.

(Chorus of ayes.)

CHAIRMAN REYNOLDS: Objections.

COMMISSIONER MELENDEZ: No.

CHAIRMAN REYNOLDS: Abstentions.

(No response.)

CHAIRMAN REYNOLDS: Okay. Commissioners Yaki and Melendez voted against the motion. The remaining Commissioners voted in favor of it.

Next up we have a vote on the State Advisory Committees.

VII. STATE ADVISORY COMMITTEE ISSUES: ARKANSAS SAC

CHAIRMAN REYNOLDS: I move that the Commission re-charter the Arkansas State Advisory Committee. Under this motion the Commission appoints all of the individuals of the committee based on the -- to that committee based on the recommendations of the Staff Director, Robert Castrell.

VICE CHAIR THERNSTROM: We're about to lose a quorum.

CHAIRMAN REYNOLDS: Okay. Commissioner Melendez, are you coming back?

COMMISSIONER HERIOT: You might want to
try to raise Pete to get a quorum.

VICE CHAIR THERNSTROM: You're not going
to get a quorum anyway unless Melendez is coming back.

COMMISSIONER GAZIANO: Pete could come
back.

CHAIRMAN REYNOLDS: Well, yes, we could
call someone. I believe Melendez is coming back.

(Pause in proceedings.)

COMMISSIONER GAZIANO: For brief moments,
five minutes at a time.

(Pause in proceedings.)

CHAIRMAN REYNOLDS: Just checking,
Richard, to see if you're gathering your belongings.

MR. SCHMECHEL: I'm not entirely sure.
They're having conversation. It could be a while.

(Pause in proceedings.)

(Whereupon, at 1:35 p.m., the meeting in
the above-entitled matter was adjourned.)