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
JENNIFER C. BRACERAS, COMMISSIONER (via telephone)
GAIL L. HERIOT, COMMISSIONER
PETER N. KIRSANOW, COMMISSIONER
ARLAN D. MELENDEZ, COMMISSIONER (via telephone)
MICHAEL YAKI, COMMISSIONER
KENNETH L. MARCUS, Staff Director

STAFF PRESENT:

DAVID BLACKWOOD, General Counsel
CHRISTOPHER BYRNE, Attorney Advisor to the Office
 of the Staff Director + Acting Deputy General
 Counsel, Office of the General Counsel (OGC)
DEBRA CARR, Esq., Associate Deputy Staff Director,
 Office of the Staff Director (OSD)
PAMELA A. DUNSTON, Chief, ASCD
DEREK HORNE (via telephone)
MAHA JWEIED
TINALOUISE MARTIN, Director of Management
SOCK-FOON MACDOUGALL
EILEEN RUDERT
KIMBERLY TOLHURST
AUDREY WRIGHT
COMMISSIONER ASSISTANTS PRESENT:

DOMINIQUE LUDVIGSON
LISA NEUDER
RICHARD SCHMECHEL
KIMBERLY SCHULD
I. Approval of Agenda ........................................ 4
II. Approval of Minutes of September 21, 2007 Meeting ............ 7
III. Announcements ............................................. 8
IV. Staff Director's Report .................................. 9
V. Management and Operations ............................... 15
   Strategic Plan .............................................. 16
   Establishment of Briefing and Meeting Schedule of 2008 ........ 32
   Celebration of Commission's 50th Anniversary .............. 38
   Information Quality Guidelines ......................... 82
   Involvement of Commissioners in Staff Activities (tabled)
VI. Program Planning .......................................... 91
VII. State Advisory Committee Issues (deleted)
VIII. Future Agenda Items (none)
IX. Adjournment ............................................. 154
CHAIRMAN REYNOLDS: Good morning. The meeting will come to order. This is a meeting of the U.S. Commission on Civil Rights at 624 Ninth Street, N.W., Room 540, Washington, D.C. Commissioner Taylor will not be able to participate in this meeting. Commissioners Braceras and Melendez will participate by telephone. All remaining commissioners are physically present.

I. Approval of Agenda

CHAIRMAN REYNOLDS: The first item on the agenda is the approval of the agenda. May I have a motion to approve the agenda?

VICE CHAIR THERNSTROM: So moved.

COMMISSIONER BRACERAS: So moved.

CHAIRMAN REYNOLDS: Commissioner Melendez, I just need to confirm that you are on the line.

COMMISSIONER MELENDEZ: Yes, I'm here.

CHAIRMAN REYNOLDS: Thank you.

Okay. Discussion?

(No response.)

All in favor, say aye.

(A chorus of ayes.)

CHAIRMAN REYNOLDS: Okay. The motion
passes unanimously. I move to amend the agenda by deleting the discussion of the item labeled "South Carolina SAC" under the item labeled "State Advisory Committee Issues."

Is there a second?

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

All in favor, say aye.

(A chorus of ayes.)

CHAIRMAN REYNOLDS: The motion passes unanimously.

I also move to amend the agenda by deleting discussion of these item labeled "Involvement of Commissioners in Staff Activities."

Is there a second?

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

All in favor, please say aye.

(A chorus of ayes.)

CHAIRMAN REYNOLDS: I move to amend the agenda to add the discussion of a briefing report entitled "Racial Categorization in the 2010 Census" under the item labeled "Program Planning."

NEAL R. GROSS
COURT REPORTERS AND TIRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701
(202) 234-4433
Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor, please say aye.

(À chorus of ayes.)

CHAIRMAN REYNOLDS: The motion passes unanimously.

I'm sorry?

COMMISSIONER MELENDEZ: I didn't vote for it.

CHAIRMAN REYNOLDS: Okay. You voted against it, or did you abstain?

COMMISSIONER MELENDEZ: I voted against it.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: I have a point of information. I thought that was in the original agenda.

CHAIRMAN REYNOLDS: It's not on mine.

VICE CHAIR THERNSTROM: It's not on mine.

CHAIRMAN REYNOLDS: So, it was already on the agenda?

COMMISSIONER YAKI: It's just that when
Chris sent out the materials for the meeting, included in it was the Census Report, ipso facto I assumed that it was on the agenda.

CHAIRMAN REYNOLDS: The agenda that was --

VICE CHAIR THERNSTROM: It's a timing question.

STAFF DIRECTOR MARCUS: The mail load is sent out just a few days after the agenda is published in the Federal Register, so sometimes there is a small discrepancy based on the passage of time.

COMMISSIONER YAKI: I'll join Commissioner Melendez in voting no.

CHAIRMAN REYNOLDS: Okay, please let the record reflect that Commissioners Melendez and Yaki voted against the motion. The remaining commissioners voted in favor.

The motion passes.

II. Approval of Minutes

CHAIRMAN REYNOLDS: Okay, the second item is the approval of the minutes of the September 21, 2007 meeting. May I have a motion?

COMMISSIONER MELENDEZ: So moved.

CHAIRMAN REYNOLDS: Okay, is there a second?

COMMISSIONER BRACERAS: Second.
CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: All in favor, please say aye.

(A chorus of ayes.)

COMMISSIONER YAKI: I'll abstain since I wasn't at the meeting.

CHAIRMAN REYNOLDS: Okay, Mr. Yaki abstains, the remaining commissioners voted in favor. The motion carries.

III. Announcements

CHAIRMAN REYNOLDS: Next up are announcements for the month of October. President Bush and Congress have proclaimed the month of October National Disability Employment Awareness Month. This is an opportunity to recognize the contributions and accomplishments of Americans with disabilities and to underscore our nation's commitment to advancing employment opportunities for all our citizens.

Landmark reforms, such as the Americans with Disabilities Act of 1990, have helped ensure that individuals with disabilities are better able to engage in productive work and participate fully in the life of the nation.

Second announcement has to do with
Thurgood Marshall. October 2\textsuperscript{nd} marked the fortieth anniversary of the day that Thurgood Marshall was sworn in as the first African-American Associate Justice of the U.S. Supreme Court. He served on the court until 1991.

Prior to his appointment to the Supreme Court, Marshall served as Chief Counsel for the NAACP. While in that position, he successfully argued the case of Brown \textit{v.} Board of Education of Topeka, in which the Supreme Court ruled that separate but equal public education was unconstitutional.


\textbf{IV. Staff Director's Report}

CHAIRMAN REYNOLDS: At this point, our Staff Director will present his report.

STAFF DIRECTOR MARCUS: Thank you, Mr. Chairman. Fiscal year 2007 closed on September 30\textsuperscript{th}. As you all know, we did have remaining funds close to the end of the year as a result of significant attrition, during and prior to the year.

Thanks to the diligent efforts of many hard working staff members, we were able to complete many much needed acquisitions prior to the end of the year using these attrition related funds. Some of the
larger purchases included a new telephone system, performance management software, performance improvement services and new furniture for the Commission Meeting conference room. This money was obligated, although, of course, thing will be arriving over the course of many months.

With respect to the telephone, you may be aware that the current telephone and voicemail systems were installed in December of 1992, when the agency first moved into the building, and are outdated and very difficult to service. Technicians seldom have knowledge about such outdated systems and it's hard to find parts. Thought our new contract with Verizon, we'll be getting --

COMMISSIONER YAKI: It's hard to find Mr. Bell to repair all those parts, right?

STAFF DIRECTOR MARCUS: That is exactly right. That is exactly right.

Thanks to the new contract with Verizon, we'll have a new system, new headsets. It will be a smaller, more efficient system with new features like caller ID, etcetera, and greater backup data in the event of a power outage.

Second, we are purchasing significant new project management software called PPM, Project
Portfolio Management. The purpose of the software is to allow the agency to improve our ability to manage human and financial resources by tracking the work done by the individual staff and linking them to the strategic and annual plans, as well as agency goals. The software should be able to allow the agency to better track agency-level performance by monitoring goals by progress reports and accomplishments and milestones, while creating materials to better manage and track project performance.

We are also in the process of purchasing new -- some new furniture for this conference room, including a new conference table, a new wood conference table to replace this table and some new chairs, including chairs for the commissioners and a couple of smaller tables to go with them for the conference room.

COMMISSIONER YAKI: The kind you get at Sharper image with the massage things built in?

STAFF DIRECTOR MARCUS: Exactly right. You are exactly right.

In addition, we are in a process now to improve various processes at the agency, for which we have contained consulting services. Specifically we have a Lean Six Sigma process to improve the quality
and efficiency of SAC rechartering and nation report production. In order to assist with that project, we've awarded a contract to Booz Allen Hamilton.

They are working now with regional staff to help assess the rechartering process and identify steps in the process where greater efficiency can be achieved. Consultants are also looking for ways to enhance the quality of the work that is done, both on the side of recruiting candidates for the State Advisory Committees and also with respect to national projects.

Those are the major purchases but there are a number of other purchases we were able to make as well ranging from computer purchases, such as a number of new laptops to a number of new books for the library.

CHAIRMAN REYNOLDS: Questions?

COMMISSIONER MELENDEZ: Yes. Commissioner Melendez here. What was the total for all of these purchases and is it within a budget line item, or is this kind of unplanned expenditures?

I didn't know we had that much money.

STAFF DIRECTOR MARCUS: Yes, I have reported from time to time that we had additional money available as a result of attrition. These are
not items that we had money for in the budget, these are items that we were able to purchase because we had funds remaining as a result of attrition.

Some of the items are expensive, they are of differing amounts. The phone system, it's $175,000 for a complete new phone system and all the handsets. The conference room, the tables were approximately $25,000, approximately $10,000 for chairs. I don't know if there are specific items that you are asking about. Some of these are big ticket items that we would not have been able to budget for because they would have been inconsistent with having the full staffing we felt we needed. Of course, during the course of the last year, we were shorthanded in many areas which caused various sorts of challenges for us, but on the other hand it gave us the opportunity to get stuff that we needed.

COMMISSIONER KIRSANOW: Mr. Staff Director, how much was left over due to attrition at the end of the fiscal year?

STAFF DIRECTOR MARCUS: At the very end of the fiscal year, after purchases were made --

COMMISSIONER KIRSANOW: Before purchases.

STAFF DIRECTOR MARCUS: Oh, well --

COMMISSIONER KIRSANOW: I don't know if
you have that immediately available.

STAFF DIRECTOR MARCUS: I don't and it was a different amount at different times, but there were -- we had -- I'll find the data and provide it, but it was a matter of hundreds of thousands of dollars.

COMMISSIONER KIRSANOW: Okay.

STAFF DIRECTOR MARCUS: Which is why these purchases amount to that.

COMMISSIONER KIRSANOW: Okay.

CHAIRMAN REYNOLDS: Any additional question? Commissioner Yaki?

COMMISSIONER YAKI: Are there any new personnel actions going on?

STAFF DIRECTOR MARCUS: There are a number of personnel actions that I've mentioned in the course of the months that are in process. In terms of new ones that have not been mentioned previously, let me think for a moment.

COMMISSIONER YAKI: Well, let me be specific. What's the progress on the OCRE position?

STAFF DIRECTOR MARCUS: I think we are making good progress and I hope to have a person selected and onboard within a matter of -- within a matter of weeks.

VICE CHAIR THERNSTROM: Are the people who
are being considered, do you know that they are available?

STAFF DIRECTOR MARCUS: I would say that I'm optimistic that we will be able to have the position filled and filled well fairly quickly.

COMMISSIONER YAKI: Is there more than one candidate for that position?

STAFF DIRECTOR MARCUS: There have been a number of candidates for that position.

COMMISSIONER YAKI: But as of right now is there more than one candidate for the position?

STAFF DIRECTOR MARCUS: At this point, I believe I have the person identified whom I would like to have here.

COMMISSIONER YAKI: And when will we learn of this person's name and qualifications?

STAFF DIRECTOR MARCUS: Well, depending on our discussions with the candidate, I would expect and hope it to be a matter of weeks, if not sooner.

CHAIRMAN REYNOLDS: Okay. Questions?

(No response.)

V. Management and Operations

CHAIRMAN REYNOLDS: Okay, next up. I move that the Commission adopt the Draft Strategic Plan for 2008-2013, distributed -- that was distributed to
commissioners on October 5, 2007. This draft plan is identical to the draft last distributed to commissioner on April 6, 2007, except that it now extends to 2013. This change is the result of the fact that we are now approving the plan in 2008, rather than 2007.

Commission staff sent this draft plan to congressional stakeholders in May 2007 and received no changes to this draft, so at this point we are ready for -- ready to vote on this plan in its final form.

By approving the Strategic Plan, we will be able to inform OMB and Congress that our 2009 is based, for the first time in several years, on established agency strategic goals and objections -- objectives rather.

May I have a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER HERIOT: I have some changes on the document. They are not big. There is one that I insist on, though, and that is on page 8, because this just drives me bananas.

Sorry, Ken. This is no personal offense to you, but this sentence about "under the leadership of the new Staff Director, the Commission has
undertaken the" blah, blah, blah. The staff director
does not lead the Commission. So, that has to be
changed to "under the leadership of the new staff
director, the staff" did something, or "with the
assistance of the new staff director, the commission"
blah, blah, blah.

STAFF DIRECTOR MARCUS: I agree that
that's an accurate change.

COMMISSIONER HERIOT: I'm happy with
either version of that, but not this version. So,
whatever makes you happy --

CHAIRMAN REYNOLDS: Okay, what was the
first --

STAFF DIRECTOR MARCUS: Change
"Commission" to "staff."

COMMISSIONER HERIOT: It's probably that
they were really talking about the Commission, so I
think it's "with the assistance of the new staff
director."

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: That is certainly
a change that comes from nice, careful reading.

CHAIRMAN REYNOLDS: Any other changes?

COMMISSIONER HERIOT: I have lots more,
but I will just leave them off. They are not big.
CHAIRMAN REYNOLDS: Other comments? Questions?

COMMISSIONER MELENDEZ: Commissioner Melendez here.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: On page 13, at the top, it describes how results towards Goal I, Reshaping the National Conversation on Civil Rights will measured, and one of those ways that it states is eliminating the backlog of the SACs with charters that expired upon or before January 30, 2011. Now I understand it's 2013?

I just don't feel that it's acceptable that the agency takes another three years to meet its statutory mandate to maintain all 51 SACs.

Again, on page 15, at the top, it describes how results towards Goal II, Strategic Partnerships With Federal Agencies will be measured, and one of the ways it states is "cooperating and coordinating with civil rights enforcement agencies during times of national emergencies, such as significant nature disasters and homeland security emergencies to support the continuity of civil rights protection and enforcement and I just think that that would have been able to have a meaningful response to
something like Hurricane Katrina or something like that.

And then, on page 12, the plan describes how an addition to civil rights -- a conference in 2009 the agency will engage in publishing a multi-state report in FY 2009 that utilizes the advisory committees to identify for policy-makers, researchers, public, state and regional civil rights issues and parities.

But yet, I believe the Staff Director said that this will just be some type of a survey and not involving original research or input by the SACs, and I just don't think -- it really doesn't do that much as far as the seriousness about SACs.

CHAIRMAN REYNOLDS: Okay, well let's start on page 12. Ken, do you want to address his comment?

STAFF DIRECTOR MARCUS: Yes. In the ideal world we would have every one of the SACs engaged in meeting and significant fact-finding to determine this. I don't know, though, that we would have the budget or the staffing to realistically think that we would be able to have, for every one of our State Advisory Committees, that sort of in-depth analysis. It sort of -- it would be very nice and it would be great to have that funds.
The intent, I think, of the -- as I understand it, as the commissioners drafted this, was to have the best report we have from the states that have State Advisory Committees. And the way that I believe, fairly confidently, that we should be able to get input from every one of our State Advisory Committees is to do something like a survey, which is to say ask a series of the same questions of every single SAC and every SAC member to get a sense of what they think are the pressing issues.

Now, presumably, members of State Advisory Committees will be informed in their responses by all the fact-finding that they are doing and have been done. But it is true that what is envisioned here is not original research by the SACs, to the extent that they choose to do that and we have the funding and the staffing for them to do original fact-finding or research to support their answers, I think that that would be terrific.

But my concern is to make sure, since this is in the Strategic Plan that we are committing ourselves to things that are attainable within the levels of funding that we have been receiving.

VICE CHAIR THERNSTROM: Commissioner Melendez, do you not think that that would be useful,
what is described here?

COMMISSIONER MELENDEZ: Well, I mean, the issue has to do with whether it's more effective putting more money out to the SACs to do their job, but yet we can spend a lot of extra money buying things. That's my main concern.

STAFF DIRECTOR MARCUS: Well, I would say that before we purchased these items at the end of the year, one of the first directives I made was to indicate to the regional staff that we had additional money available and that I would encourage SAC travel and I think that that came first. So there was never question of SAC travel being sacrificed in order to make any sort of purchases. But on an ongoing basis, we can't assured of having that sort of money.

COMMISSIONER MELENDEZ: Right. And then my other concern on the SACs was that they were able to at least meet twice a year, in face-to-face meetings. Do you remember that discussion?

STAFF DIRECTOR MARCUS: My understanding is that SACs did have twice a year meetings in the past. That stopped before my tenure, though, and my understanding is that that did not mean that there were 51 SACs that would have two meeting per year. Some of those meetings would be a meeting of the -- a
regional meeting for every SAC in the region. There's no question that in prior years we had funding for a lot of things that we don't have funding for now.

COMMISSIONER MELENDEZ: Or at least once a year.

Okay, thank you.

CHAIRMAN REYNOLDS: Okay, Mr. Staff Director, the issue that was identified on page 13, the elimination of the backlog of SACs. Would you care to respond?

STAFF DIRECTOR MARCUS: Oh, I don't think that there was any intent to change the year 2011 to 2013. My hope is to exceed this goal and to over-deliver by chartering the SACs before that date. We have some challenges, though, in terms of attrition, recent loss of regional directors to retirement, and so on and so forth. One of the reasons that I have -- that we are involved in this management initiative right now is to try to speed up the process for SAC rechartering in the hopes that we will beat this, but I do think it's important to have reasonable goals here.

CHAIRMAN REYNOLDS: Mr. Staff Director --

COMMISSIONER KIRSANOW: I just don't understand the question here. Where did the 2013 come
from?

STAFF DIRECTOR MARCUS: Well, my understanding of Commissioner Melendez's question is based on the fact that this Strategic Plan has just been changed to extend out to 2013.

COMMISSIONER KIRSANOW: Okay.

STAFF DIRECTOR MARCUS: And so I heard him to ask whether by changing the period of the entire plan to 2013, we intended to change the deadline for this particular objective and the answer is no.

COMMISSIONER KIRSANOW: Oh, okay, because all I saw here was 2011.

CHAIRMAN REYNOLDS: Mr. Staff Director, how long does it take to recharter a SAC?

STAFF DIRECTOR MARCUS: I'm not sure that I can even answer that, but I guess I would say that the SACs that we have been rechartering lately have been in process, not just for months, but for well over a year.

So it does take a significant amount of time now. I don't have a date on it, but each time we have a package, we work on that statement for well over a year.

CHAIRMAN REYNOLDS: I'm not familiar with that process, but it seems -- I'm surprised that it
takes so long.

STAFF DIRECTOR MARCUS: Well, the problem is that there are many of these improvements that are going on simultaneously. It's not as if each one takes that amount of time, but they are being done concurrently, and the staff, while doing these packages is simultaneously trying to have meetings and fulfill their other requirements. And, of course, the regional requirements have now become significantly steeper based on the new rule that our SAC members are special government employees with creates various ethics and paperwork requirements that have the staff time ramifications.

VICE CHAIR THERNSTROM: Well, can we expect that in the future it's going to take a year to recharter a SAC or is this a problem of what faced at the start of this round?

STAFF DIRECTOR MARCUS: I think it's the latter. Now we have a different sort of challenge than what we'll have in a couple of years. Right now, we have a situation in which the term limits have created a significant number of vacancies in most or all of our SACs. We have some states that have few or no members that are eligible for reappointment, so we need to select 11 to 19 new people.
COMMISSIONER YAKI: That's what happens when you purge them all.

STAFF DIRECTOR MARCUS: Since --

CHAIRMAN REYNOLDS: I was waiting for that. I'm surprised it took you C- what was that?

About seven seconds went by.

STAFF DIRECTOR MARCUS: Since we have so many new members of the SAC --

COMMISSIONER YAKI: It's the FCC delay button. There were some other words that were muted out.

STAFF DIRECTOR MARCUS: When the recently chartered SACs are up for rechartering, there will significantly fewer members eligible for -- ineligible for reappointment based on term limits, so I would expect that in future years the rechartering process should become much quicker.

COMMISSIONER YAKI: And then, of course, you have people like me who object to some of the appointments on the SACs, which draws it out some more, as well.

STAFF DIRECTOR MARCUS: Yes. That is true.

CHAIRMAN REYNOLDS: Any other questions on that issue?

VICE CHAIR THERNSTROM: But that won't
happen in the future.

COMMISSIONER YAKI: Can I read this person's resume out loud?

CHAIRMAN REYNOLDS: Okay, what was the last one?

COMMISSIONER MELENDEZ: Page 15.

CHAIRMAN REYNOLDS: Yes, second bullet --

COMMISSIONER MELENDEZ: National emergencies or something.

CHAIRMAN REYNOLDS: Well, I was at the Department of Education on 9/11, and there was coordination between the various civil rights agencies to ensure that we didn't have a backlash again Muslims, Arabs, Persian, so when I read this issue that's the scenario, at least one of the scenarios that came to mind.

STAFF DIRECTOR MARCUS: That's one of the things, I understood, was not a staff generated issue. Another issue that came to my mind as I interpret this is that agencies out -- work together to see whether there were best practices for dealing with persons with disabilities after a crisis situation, like Hurricane Katrina. That might be another crosscutting intergovernmental civil rights issue.

COMMISSIONER YAKI: There is also the
issue of language and access to emergency services. It is actually a pretty big thing. When I was dealing with the earthquake in San Francisco in '89, we sort of had to invent this on the fly because we needed to ensure that disabled individuals -- that the disaster assistance center was wheelchair accessible. The original site picked by the Army, was, of course, up two flights of rickety stairs and we said, "No, you can't do that."

We had to make sure there were people on site who could speak Chinese dialects and Spanish in order to answer questions for people seeking to apply for the -- under the Stafford Act.

So it's actually quite important and I do know that the Commission did take action after 9/11, to create a hotline dealing with backlash against anyone who might have looked like someone someone wasn't going to like, so I think it is a very viable and important part of what the Commission does, now and in the future.

COMMISSIONER MELENDEZ: Okay, sounds fine. I just didn't understand what it was all about. Thank you.

VICE CHAIR THERNSTROM: I agree. I hope we do it better than we did with that hotline, though,
but I agree.

COMMISSIONER YAKI: Not my hotline.

CHAIRMAN KIRSANOW: Was that the hotline that went to the sex services?

VICE CHAIR THERNSTROM: Yes.

COMMISSIONER HERIOT: What?

COMMISSIONER KIRSANOW: We started a hotline for complaints related to 9/11 and apparently it was mistakenly wired into a sex services line.

COMMISSIONER YAKI: No?

COMMISSIONER BRACERAS: A model of competence.

COMMISSIONER YAKI: No?

VICE CHAIR THERNSTROM: Yes.

COMMISSIONER YAKI: No?

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: Okay. Moving right along, any additional questions?

COMMISSIONER YAKI: What's the number again?

(Laughter.)

CHAIRMAN REYNOLDS: Questions? Comments?

VICE CHAIR THERNSTROM: I think this is a very good piece of work and I commend those who put it together.
CHAIRMAN REYNOLDS: All in favor, please say aye.

(A chorus of ayes.)

COMMISSIONER YAKI: What are we voting on now?

VICE CHAIR THERNSTROM: The Strategic Plan.

COMMISSIONER YAKI: Have we finished with comments on it?

CHAIRMAN REYNOLDS: I just asked for additional comments, and no one said anything.

COMMISSIONER YAKI: Oh, I'm sorry. I was drifting off into --

VICE CHAIR THERNSTROM: Thinking about that sex line?

COMMISSIONER YAKI: I was just thinking, how the heck did that happen?

VICE CHAIR THERNSTROM: He was thinking, what was that number? How can I get it?

COMMISSIONER YAKI: The question I have about the Strategic Plan, just has to go to -- well, I'm concerned about it but one thing I would ask though, is I'm uncomfortable voting for something if there are other changes that are going to be made, even if it's wordsmithing, without seeing it
beforehand.

CHAIRMAN REYNOLDS: I believe that --

COMMISSIONER HERIOT: We've done our wordsmithing.

COMMISSIONER YAKI: I thought you said you had a whole bunch more?

CHAIRMAN REYNOLDS: But she --

COMMISSIONER HERIOT: Well, I've waived them. They were too boring for wordsmithing.

COMMISSIONER BRACERAS: Too boring.

COMMISSIONER YAKI: Too boring for words.

COMMISSIONER KIRSANOW: We only make exciting changes.

VICE CHAIR THERNSTROM: Gail, do don't want to, after the meeting, have at it?

COMMISSIONER HERIOT: No.

CHAIRMAN REYNOLDS: With that understanding, are you comfortable with the document?

COMMISSIONER YAKI: No, no, I just want to say that I'm glad that we've gone down this path. The conference on the civil rights was something that I brought up in, I think, my second month on the Commission. I'm glad it's included in this. I think it's a good goal to start raising the issue of what else is out there, what we may not know about, or
what's new and cutting edge. And even though there are some parts of it that probably drive me a little bananas, I'll vote for it.

VICE CHAIR THERNSTROM: Well, in terms of the cutting edge issues that are out there, I mean, that seems to be part of the point of the utilizing the SACs, whatever page that was on.

COMMISSIONER YAKI: Well, I have more faith in the national conference than I do in the SACs.

VICE CHAIR THERNSTROM: Okay, but the SACs certainly can forward information about issues in their states.

COMMISSIONER YAKI: True. I just have more confidence in the national conference than I do in the SACs.

VICE CHAIR THERNSTROM: They are not mutually exclusive.

CHAIRMAN REYNOLDS: Well, no, Michael has some other comments that we will save, I hope, until we can finish up today because I'm interested in the commentary.

In any event, if my recollection is right, the motion passed unanimously.

COMMISSIONER MELENDEZ: I abstained.
CHAIRPERSON REYNOLDS: Okay. Please let the record reflect that Commissioner Melendez abstained. The remaining commissioners voted in favor of the motion. The motion passes.

I move that the Commission adopt the proposed 2008 meeting calendar and briefings schedule, both distributed to commissioners on October 4, 2007. Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER YAKI: We have briefings but we don't have a schedule. I had a question about the June one, since there's an asterisk beside it, I'm wondering if that can be a place holder for the minority to put in a briefing.

CHAIRMAN REYNOLDS: I'm sorry?

COMMISSIONER YAKI: June 2008.

CHAIRMAN REYNOLDS: Right.

COMMISSIONER YAKI: There's an asterisk that says it may be moot. I'd be willing to change that but I would like to do it in consultation with Commissioner Melendez, since the number of briefings has now dropped and we earlier had had understanding that the minority on the committee would get at least one or two briefings of its choosing.
CHAIRMAN REYNOLDS: I remember one.

COMMISSIONER YAKI: No, we had two.

CHAIRMAN REYNOLDS: Good try.

VICE CHAIR THERNSTROM: Wait a minute, I'm sorry, I'm lost here. Are these briefings -- the topics of briefings, do you regard them as in categories of topics the majority is interested in and topics the minority is interested in?

I mean, I would hope --

COMMISSIONER YAKI: I'm thinking that --

COMMISSIONER BRACERAS: Excuse me --

COMMISSIONER YAKI: Sorry.

COMMISSIONER BRACERAS: -- if I could just butt in a second. We did sort of talk about how they're standing, not to make a statement that the majority and the minority were interested in completely different topics, but just because of the numbers and the imbalance on the Commission, we wanted to make sure that Commissioner Yaki and Melendez had an opportunity to have topics addressed that were, you know, close to their hearts, and that, you know, not that there would be an ideological difference, per se, but just that we wanted to make sure those individuals --

COMMISSIONER YAKI: Exactly, Jennifer.
It was more of a point that the way that the point scoring system was that if Arlan and I voted for one and four of you guys voted for another, we would lose.

CHAIRMAN REYNOLDS: That works.

COMMISSIONER BRACERAS: I'm just asking for you guys to consider it and make sure --

CHAIRMAN REYNOLDS: No, that's fine.

COMMISSIONER BRACERAS: -- that the views of Arlan and Michael on what happens with the draft would be accounted for in someway.

VICE CHAIR THERNSTROM: And this list doesn't go through the --

CHAIRMAN REYNOLDS: We've covered some cool topics.

COMMISSIONER YAKI: So, I was just going to say that I would vote to approve, but I would reserve the asterisk on 2008 as possibly something that Commissioner Melendez and I can figure out with enough time for the staff.

CHAIRMAN REYNOLDS: Okay. Any other comments?

COMMISSIONER YAKI: On the dates themselves, I think we're doing okay.

CHAIRMAN REYNOLDS: Commissioner Thernstrom, any questions?
VICE CHAIR THERNSTROM: No, I think I'm fine.

CHAIRMAN REYNOLDS: Commissioner Braceras?

COMMISSIONER BRACERAS: Well, the dates are somewhat irrelevant to me.

(Laughter.)

CHAIRMAN REYNOLDS: Okay.

Well, normally you point out when we screw up by picking the date that's on a holiday.

COMMISSIONER BRACERAS: Well, I'll be honest with you, I didn't give it much thought given that, you know, my term ends in December.

CHAIRMAN REYNOLDS: Sure.

COMMISSIONER BRACERAS: So, I'll pass that mantle to whoever would like to pick it up.

CHAIRMAN REYNOLDS: Jennifer, are we going to see you before your term ends?

COMMISSIONER BRACERAS: Yes, you are going to see me. You are going to see me in November and in December.

COMMISSIONER YAKI: We moved the December specifically for that.

COMMISSIONER BRACERAS: Yes.

COMMISSIONER YAKI: Because the bakery was open, right? For the cake. For the big cake
you're making for her, Jerry.

COMMISSIONER BRACERAS: I'll be there in November and December.

CHAIRPERSON REYNOLDS: Okay. Commissioner Melendez?

COMMISSIONER MELENDEZ: Are we always going to have August as a no meeting? I saw that in the June 8th -- the whole schedule is like that. Is there a reason for that?

We have so many items, why would we have one month of not meeting?

CHAIRMAN REYNOLDS: Well, historically, I believe that's what we've done.

VICE CHAIR THERNSTROM: Yes.

STAFF DIRECTOR MARCUS: Historically, we haven't scheduled anything for August to allow for such things as staff vacations. For the last few years, while we haven't scheduled anything for August, we have shifted things around as things have popped up over the course of the year. So as a practical, August ended up as a place holder for the last three years.

COMMISSIONER YAKI: Traditionally, August is the swaggiest time in D.C.

COMMISSIONER HERIOT: Can we have the
option to schedule an August meeting?

    COMMISSIONER YAKI: Yes, I think we've
done that, in fact, the last two years.

    STAFF DIRECTOR MARCUS: We've done that
consistently for the last two years.

    COMMISSIONER YAKI: Yes.

    CHAIRMAN REYNOLDS: Okay, if there are no
other comments or questions --

    VICE CHAIR THERNSTROM: It's possible that
I can't make the May thing, but I can't -- it's not in
my calendar yet so --

    CHAIRMAN REYNOLDS: Okay. All in favor,
with the amendment offer by Commissioner Yaki with
respect to the June 2008 briefing, with the
understanding that Commissioners Yaki and Melendez may
offer a substitute for the June 8th briefing, other
than that everything remains the same.

    So, all in favor, please say aye.

    (A chorus of ayes.)

    CHAIRMAN REYNOLDS: Okay.

    COMMISSIONER YAKI: A disinterested aye,
though, right, Jennifer?

    COMMISSIONER BRACERAS: No, not a
disinterested aye. Just aye.

    CHAIRMAN REYNOLDS: Okay, the motion
passes --

COMMISSIONER YAKI: But not invested either.

COMMISSIONER BRACERAS: Yes.

CHAIRMAN REYNOLDS: The motion passes unanimously.

Okay, celebration of the Commissions fiftieth anniversary. The Commission is set to celebrate its fiftieth anniversary next, well this January. On January 3, 1958, the six inaugural members of the Commission were sworn in by President Eisenhower and held their first meeting in the West Wing of the White House. The Staff Director has circulated a memorandum to commissioners presenting a few options to celebrate this anniversary.

Mr. Staff Director, would you care to walk us through the options?

COMMISSIONER YAKI: Point of information. Are any of these six members still with us?

VICE CHAIRMAN EYNOLDS: That I don't know.

COMMISSIONER KIRSANOW: I'm sorry, what's your question?

COMMISSIONER YAKI: The six original --

COMMISSIONER HERIOT: Yes, Hesburgh is still alive.
CHAIRMAN REYNOLDS: Hesburgh is still alive.

STAFF DIRECTOR MARCUS: Yes, he just turned ninety.

CHAIRMAN REYNOLDS: In fact, he's scheduled to come to Washington. He's being honored here in D.C.

VICE CHAIR THERNSTROM: Where is he located?

COMMISSIONER KIRSANOW: Notre Dame, isn't he?

CHAIRMAN REYNOLDS: Yes, Notre Dame.

COMMISSIONER YAKI: The wheels are turning, but we should think about something involving the remaining --

CHAIRMAN REYNOLDS: Assuming that there are others, all of those who are still with us.

COMMISSIONER YAKI: Yes.

STAFF DIRECTOR MARCUS: Mr. Chairman, the staff has looked at a few different options, primarily based on commissioner input, that could help meet our strategic goals as far as an authoritative national clearinghouse and repository of civil rights data and information. First, Commissioner Heriot proposed that we might have a conference commemorating the
Commission and its work, sometime early in 2008. That could be conducted by Princeton, perhaps working with Georgetown University.

COMMISSIONER HERIOT: Princeton could hold this without our permission. They're thinking that they're doing this.

STAFF DIRECTOR MARCUS: Very good. Second, the Commission could produce a series of perhaps three to five new brief audio public service announcements, perhaps approximately 15 seconds. And again, this was based on an idea originally from Commissioner Heriot, that would include a brief discussion of a little known, uncontroversial, but important fact about civil rights.

Commission staff could research interesting civil rights facts, with input from commissioners, then draft a text of these PSAs for approval by the Commission.

The production costs incurred in producing new PSAs would be, we estimate, in the vicinity of $5,500. If we were to produce more than two or three PSAs, the marginal cost of production would likely increase by about $150 an hour for additional time spent editing and mixing.

COMMISSIONER YAKI: We're talking about
radio only, right?

        STAFF DIRECTOR MARCUS: Pardon?

        COMMISSIONER YAKI: You're talking about radio only for that option?

        STAFF DIRECTOR MARCUS: This option is radio only, yes.

        COMMISSIONER YAKI: Okay.

        STAFF DIRECTOR MARCUS: Production would likely require the agency to undertake some procurement action with respect to securing recording studios, production services and encoding. Distribution costs would likely total another $8,500, at least, for the distribution, including purchasing of mailing lists, and packaging up and mailing. Although, it's possible that we could form some sort of partnership with a private sector broadcaster assuming that we could do it in a way that clears OGC reviews, to keep the distribution costs down.

        While we don't yet have appropriations, this is an approach that looks like it could be feasible, consistent with the budget.

        A third idea that's been raised is for the Commission is to produce a video public service announcement for use on television. The production costs incurred in producing a thirty second video
public service announcement have been estimated to be at least $100,000. Now, we have been advised that there be one or more broadcast network or satellite network that would be willing to help us in distributing the PSA at no charge, so the distribution costs would be at a minimum. If that were not the case, we would have substantial, additional distribution costs.

CHAIRMAN REYNOLDS: Mr. Yaki?

COMMISSIONER YAKI: What is our ability to use -- to lift the distribution rights? When I negotiated a lot of cable franchises, part of the deal was essentially the creation of a community facility studio that could be used to -- that is used to create community productions, community PSAs, etcetera, etcetera. And there located pretty much in every big franchise city in this county. Probably here as well. New York, Boston, San Francisco, where the cost for producing, you're often using student interns and other kinds of folks who are learning the business. I think that would be a lot lower than $100,000, and I would think that if you were going to do this in a --

Well, let me start over. My idea on this would be to do it similar to that, the radio PSAs. Just have a rotating series if three or four, 15
second, 20 second, video PSAs, but you know, if we were able to avail ourselves of the community rate at a lot of these facilities that exist throughout the country, I think the cost would be a lot lower.

STAFF DIRECTOR MARCUS: We haven't looked into that. We certainly could. There are facilities like that in the D.C. metropolitan area through the cable stations.

COMMISSIONER YAKI: Right.

STAFF DIRECTOR MARCUS: The trade off we would have to look at is that if we did not use a high production value professional video production, we would end up with the low level quality and the ramification of that is that the distribution will end up being much more difficult because there are so many more PSAs than there is time to put them in. Generally speaking, the more professional the PSA, the more likely it will get some air time.

COMMISSIONER YAKI: Right. Well, then that goes to my next question, which is to what extent are we allowed to partner with people who would do an A-1 job at a substantially reduced fee?

I was just thinking of people who I know in the industry, who I've worked with before on videos for unnamed items.
CHAIRMAN REYNOLDS: Okay, and I would like to add to Commissioner Yaki's question. Just put a final point on it. What are the legal restraints for our accepting --

STAFF DIRECTOR MARCUS: That's a delicate question. I'm going to defer to the General Counsel because we do have a statutory prohibition on receiving uncompensated services. And that is a concern that I would have to that sort of arrangement, but I'll defer to Mr. Blackwood, the General Counsel.

MR. BLACKWOOD: Unfortunately, the Staff Director is correct. I looked into the issue of can we receive discounted services or, in some cases, whether we can have somebody volunteer the services. We seem to be blocked in.

I've consulted also with other agencies about how they have handled the development of PSAs. In each case I've been told they had to pay full freight.

Now, I'll continue to look into that issue. You talked about a community service, we might be able to work out some kind of a deal, but we pretty much prohibited from receiving any kind of free or discounted services.

CHAIRMAN REYNOLDS: Well on the production
side, if you have a cable access station, and the
service is -- is -- the service is open to the public
and it's free, would be able to use those services?

MR. BLACKWOOD: That's an interesting
question. I would assume that if other people are
able to get it on a voluntary or free basis, that as
long as everybody is treated that way --

CHAIRMAN REYNOLDS: Right.

MR. BLACKWOOD: -- that we could use the
service as well. But what we cannot receive is
"free" services from somebody that everybody else has
to pay for.

COMMISSIONER YAKI: What about, say you
can get someone of some stature to narrate it, and
this person routinely volunteers his or her voice to
these kinds of things, is that something that would be
off the charts as well?

MR. BLACKWOOD: I think that's open to --
that's problematic. I think we have a better chance
of that. I don't have a firm opinion on that one. We
did have, for example, several celebrity voices in the
PSAs that were done several years ago. I would
suspect that we did not have to pay full freight for
that because -- well, I'm not sure. Again, I would
have to probably talk to other agencies to see how
that was done. I have pretty much nailed down how the production, though. Did that answer your question?

CHAIRMAN REYNOLDS: Commissioner Thernstrom?

VICE CHAIR THERNSTROM: I have a question from pure ignorance. I'm not totally convinced that the radio spots are, let's say, are terribly effective in communicating the sense of the importance of the Commission and its work. Do we know anything about the tradeoffs in terms of effectiveness of one outlet versus the other.

COMMISSIONER HERIOT: Are you talking about radio versus TV or radio versus something else?

VICE CHAIR THERNSTROM: Or, for instance, newspaper adds or adds in --

COMMISSIONER YAKI: Nobody reads a newspaper add.

VICE CHAIR THERNSTROM: Nobody read the newspaper?

CHAIRMAN REYNOLDS: It's done for shock value, and to generate another news story that would be read by the same people who read the newspaper, which is about ten percent of the people who used to read them ten years ago. Right?
VICE CHAIR THERNSTROM: That's correct. Well, whatever, I mean there are a lot of forums on the web which will reach people and I just --

COMMISSIONER HERIOT: I think what we have to do is figure out what message we are trying to send them in the first place.

VICE CHAIR THERNSTROM: And that's the second question I was going to --

COMMISSIONER HERIOT: One possible alternative forum, you know, as far as I'm concerned, would be educational packets to be sent to elementary school students, junior high students, high school students. We have to figure out what it is we're trying to say.

VICE CHAIR THERNSTROM: Well, let's --

COMMISSIONER HERIOT: Then we have to figure out who we are trying to say it to, then we can figure out --

CHAIRMAN REYNOLDS: That would be more expensive.

VICE CHAIR THERNSTROM: -- you know, what's the best way to say what we want to say to the people that we want to say it to.

VICE CHAIR THERNSTROM: Yes, and that was the second question I was going to ask. What are
these little know facts about civil rights? I mean are they facts I don't know? Are they facts that the kids don't know at a school, or what are they?

COMMISSIONER HERIOT: I was thinking more along the lines of something that a high school student might not know, in which case maybe what we should be doing is --

VICE CHAIR THERNSTROM: They don't know anything, so --

COMMISSIONER HERIOT: That's -- I'm not talking about stuff that is going to be a big shock to you. Little things that can be communicated in thirty seconds. But maybe the way to go is to think about preparing materials for high school students.

VICE CHAIR THERNSTROM: That appeals to me much more, frankly, than --

COMMISSIONER KIRSANOW: Maybe the General Counsel addressed this, but I wasn't zeroed in on it, but in terms of receiving uncompensated services, does that also include partnering with other agencies that maybe more flushed with funds than we are.

For example, if we are going to do a PSA or let's say we distribute education materials to schools and the U.S. Department of Education assisted us by picked the cost, or a portion of the cost of
distributing pamphlets to the schools nationwide or in a specific area of the country?

MR. BLACKWOOD: Well, we did not look at that question specifically, but I think that's much less problematic, working with them, if we had an MOU with a different agency about who does what, I don't think it matters if they use -- in essence, we used or benefit from the fact that they have a lot more power to, you know, place the adds or produce them.

COMMISSIONER KIRSANOW: We may want to explore, either formally or informally based on our contacts with Education and others to see whether or not we can use there good offices in assisting us in doing that. And to Commissioner Heriot's point, I think it's much more effective to do what she is suggesting as opposed to a transitory add on the radio that someone is going to hear for five seconds --

VICE CHAIR THERNSTROM: I agree.

COMMISSIONER KIRSANOW: -- and then forget about once they get caught in traffic.

VICE CHAIR THERNSTROM: Yes.

COMMISSIONER KIRSANOW: My personal preference is not obscure items of civil rights but, all of us who have been in high schools know that most high school students and their teachers don't even
know the Civil Rights Commission exists. Might not even know what the 1964 Civil Rights Act was about, let alone the ‘57 Civil Rights Act. Maybe we have some, you know, just basic, fundamental components of civil rights that we distribute to high school students or middle school students.

I'm agnostic, you know, I'm not wedded to that. I'm just throwing that out.

VICE CHAIR THERNSTROM: I agree with that.

CHAIRMAN REYNOLDS: What's the format? Does anyone have a format in mind? What are we talking about, a pamphlet, I heard. Anything else?

COMMISSIONER YAKI: Well I think if you want to make it so that you're not busting the bank, you basically create a downloadable PDF that you can send out to schools and the teachers can download for free a distribute that way, but otherwise, when you start talking about pamphlets, you're talking a lot of money. There are a lot of schools.

VICE CHAIR THERNSTROM: Well, but if we did it that way there are all sorts of --

COMMISSIONER YAKI: The web is how you get them.

VICE CHAIR THERNSTROM: Right. There are all sorts of courses in school or lessons built into
their lesson plans, little units on civil rights of
one sort or another, I'm sure teachers would be
delighted to have this kind of material.

COMMISSIONER YAKI: What I'm saying is
that if you develop sort of a one week or two week
civil rights curricula, I would say that the tough
part is going to be developing it. I think the easy
part would be to market it basically through our own
website and through cooperation with DOE and other
people in terms of getting it out to teachers so that
they can just download it and go off with it.

VICE CHAIR THERNSTROM: Well, I'm in total
agreement with Commissioner Kirsanow, five second
spots on the radio don't really do anything for me,
but this does, because it reaches not only the
students but the teachers.

COMMISSIONER KIRSANOW: Should we develop
a curriculum or should it be something more --

COMMISSIONER BRACERAS: Whoa, whoa, whoa,
whoa. Let me just butt in. There are a ton of civil
rights things, curriculum materials out there, and
some of them are fabulous and some of them are not so
great. I'm sure -- well, I'm not sure that we could
add value in that arena, but even if we could, as a
parent, my challenge has always been getting schools
to even use them because there's a real reluctance to

teach American history and civics in a lot of ways.

You may find that hard to believe but it's true.

So I don't think the Commission, you know,

that's biting off more than we can chew, first in
terms of our ability to add value and our ability to
actually have it used.

VICE CHAIR THERNSTROM: Well, Jennifer, is
there any sense, I mean, I understand what she's
saying, but is there -- do you have any sense of kind
of holes in the material that is already available to
school that they are or are not using?

COMMISSIONER BRACERAS: Well again, you

know, I said the biggest problem is that it's not
being taught. More, I think, at the high school level
than at the elementary school level. The elementary
school level, and I've done a bit of research on this,
as far as what's taught in our state and in other
states about civil rights, and a great many places
they don't even -- I mean, you'd be surprised, the
kids get the day off for Martin Luther King Day and
they don't even know who he is. They just think it's
another day to go skiing or something.

So, I've thought a lot about this, you

know there is a lot out there, I think convincing
school administrators that it's an important part of the curriculum is the first battle and I don't know that we have a role to play in that or -- I'm not sure if we do or not, I mean it's something that I certainly work on personally. I don't know where you want to go with the sort of huge undertaking. And a valuable one, but --

COMMISSIONER HERIOT:  Jennifer, I'm actually surprised at what you're saying because, you know, I don't have children that I have direct contact with on this issue, but you know my friends' children seem to be studying civil rights a lot in school, and if you're correct and their situation is special, then I actually think that this is worth a briefing.

You know, what are schools teaching? What is the typical civil rights curriculum in elementary and junior high school? That's something that we ought to study and have a briefing, I mean, it worries me that there are students up in Massachusetts who don't know why they have Martin Luther King Day off.

COMMISSIONER BRACERAS:  A lot of kids don't, but you know what, I think that's a very good point, I mean, I don't know how other people feel about that but to me education, civil rights, and remembering the past, you know, it's all intertwined.
And, you know, if kids don't know about the civil rights movement then we're lost, what can I say. So, you know, as I said, there's more of it going on at the high school level, but I find that what is taught at the high school level tends to be ad hoc and contemporary with very little emphasis on the history of the movement, and the victories that have been achieved.

Most of the courses look at current issues and problems, without that greater context, so I think it's a very big problem. I think a briefing about it could be fascinating.

VICE CHAIR THERNSTROM: But Jennifer, why is it, what you are saying, and it squares with my own experience of it as well, about the A) historicism of the whole approach to contemporary race related and ethnicity related issues, why doesn't that speak to the Commission, in fact, trying to disseminate materials which put the contemporary questions in some sort of historical context?

COMMISSIONER BRACERAS: You know, I do think the Commission could play a role in advocating for civil rights education. That would be extremely valuable, but I think the first step might be -- I don't think we can create the curriculum because,
first of all, in some ways that's outside of our abilities, both in terms of budget and skill set and other things, but also because there are so many out there.

I mean, so maybe, in other words, maybe the role we can play is the same role that David McCullough plays, for example, in advocating for history education. And without specifically saying -- telling them what books they need to assign and what lessons they need to teach, we should just be out there pointing out the fact that not enough is being taught and that it should be integrated into the curriculum at a very young level.

You know, first grade is not too early to talk about Martin Luther King Day. Or to talk about the Civil War, or to talk about, you know, the Civil Rights Act of 1964. You know, you don't get into statutory details, obviously, with first graders, but it's not too early to start talking about those things and so, I think we should certainly be advocates for it, I just don't know that we can develop it and write it.

CHAIRMAN REYNOLDS: Okay, I think that this is a very good suggestion, but it is slightly off the mark in that we have a fiftieth anniversary and we
have to come up with some product and so, Jennifer, is it your position that the product that was offered is inappropriate or something that we should not do?

VICE CHAIR THERNSTROM: Or alternatively, what should we do?

COMMISSIONER BRACERAS: I was responding to Pete Kirsanow's suggestion of passing out curriculum.

COMMISSIONER KIRSANOW: Right, it was my suggestion. I just said, do we write a curriculum or do we -- my idea was that we should do something much less ambitious than that and keep focused on what the whole purpose of this is and that is too commemorate the fiftieth anniversary.

And second, how do we, in a cost effective fashion, communicate the fact that it's the fiftieth anniversary and also all that goes along with that in terms of what the Commission has been responsible for in terms of moving the civil rights debate along.

COMMISSIONER YAKI: I think the nail that Peter just hit on the head is the Commission. Obviously, I think -- I think Jennifer is right. I think attempting a civil rights curriculum is way beyond our ken. I also think that PBS did a magnificent documentary on the civil rights movement,
"Eyes on the Prize." That's out there, that can be a standard teaching fodder.

But in terms of the Commission itself, I think there's a distinct and narrow focus that maybe, if we think about it, we can find some way to target it, whether it's out of school, whether it's whatever. But I think that's how we should keep the focus. Because if we expand --

COMMISSIONER BRACERAS: I agree with that. But I have a separate aside, since the conversation has sort of gone down this path. I mean I do think if the Commission goes forward that one way it can be relevant and be really valuable in our society would be to somehow find a way to advocate for civil rights education. Whether that would be through testimony, before boards of education, or briefings, or putting out ads. I think that could be -- I'd never thought about that before, but it seems to me that could be a valuable and completely non-partisan way for us to all come together as people who care about these issues and be relevant.

CHAIRMAN REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: I agree that could be our 50th anniversary project, advocating for civil rights education. And one of the mechanisms that we
could use would be to come up with a test with questions to administer in cooperation with the Department of Education to a randomly selected group of classes at different levels around the country.

And then publish -- I think we could get a lot of publicity for the issue to say okay, we've administered this test and we've discovered that students don't know X, and they don't know Y, and they don't know Z. They do know this, they do know that, but they don't know this.

COMMISSIONER BRACERAS: I would be interested. I think that that's fabulous. I would be interested in knowing if perhaps that may already have been done. Because there are these national history assessments that every once in a while you read, you know, the vast majority of twelfth graders can't tell you half century the Civil War took place in, right? So there are -- you do see those sometimes.

COMMISSIONER HERIOT: I'd like to see our own test, because I think there are a range of questions that I think we'd be interested in, and I suspect that not all of them have been tested.

COMMISSIONER BRACERAS: Right, no, I think that's right. That would be a fascinating project.

CHAIRMAN REYNOLDS: Vice Chair Thernstrom?
VICE CHAIR THERNSTROM: Well, I like this discussion a lot and the way it's going. And I think that we need some time to talk about it further, obviously. Just to tie it in with an experience of my own, very briefly, when my husband and I published "America in Black and White" in 1997, and the first third of the book is really on the history up to the sixties.

An astonishing number of adults -- forget about schoolchildren -- an astonishing number of adults said to us -- educated, highly educated adults -- we did not understand what the south was like before -- we didn't understand what the Jim Crow south was like. We didn't know, we thought this was some kind of whine about how horrible the old days were. So there is just massive ignorance -- basic history of this country. And the landscape of American Apartheid, and how far we've come since then, and so forth.

I'd like to figure out a way of playing an educative role. That's the bottom line. I think we need to continue this conversation.

COMMISSIONER BRACERAS: No, I do too. And I think Gail's suggestion is the perfect first step. Because before we or anybody else starts advocating
about what needs to be done, we need some sort of
objective assessment of the level of the problem. And
if we could -- if we could produce something like
that, that would generate some headlines, and focus
the spotlight on an issue and then the Commission
could develop some sort of plan of where to take those
-- you know, what to do about those -- what the
Commission could do about those.

CHAIRMAN REYNOLDS: Okay. This has been a
good discussion. But in terms of action items, I
guess I'll try to start with what I believe is the
easiest issue. Is there agreement to have David
Blackwood look into the legality of -- to accept
services offered by production companies.

COMMISSIONER YAKI: I would -- I would
instead suggest that perhaps in the grand fashion of
the Commission that we instead go to a subcommittee --
appoint a subcommittee on this.

CHAIRMAN REYNOLDS: Do you really want to
do this, Michael?

COMMISSIONER YAKI: Absolutely --

CHAIRMAN REYNOLDS: -- the anniversary
around the corner, and in terms of efficiency,
juggling schedules -- you know, if we're going to have
product ready before the end of the year, I'm not sure
that that's the most efficient vehicle.

COMMISSIONER HERIOT: Do we have that much interest in a radio or TV spot anyway?

CHAIRMAN REYNOLDS: Quite frankly, the PSA for television, I think that there are a lot of complexities involved in it. And as Commissioner Thernstrom has pointed out, I'm not sure what the impact is going to be.

COMMISSIONER BRACERAS: But I think a survey would have a big impact, and what if -- I mean.

VICE CHAIR THERNSTROM: A survey -- that's a separate question.

COMMISSIONER BRACERAS: But does it have to be separate? I mean --

VICE CHAIR THERNSTROM: Well, we can't do it over the radio.

COMMISSIONER BRACERAS: We don't think that.

VICE CHAIR THERNSTROM: Well, we're talking about radio spots right now.

COMMISSIONER BRACERAS: Right, but what I'm suggesting is, maybe we scrap that idea, because of expense and complexity, and switch gears, and participate in the conference, do a survey, bring the results of the survey to the conference, you know,
write op-eds about it. I mean, all of that is free media, basically. The survey would cost, to some extent, but the publicity it would generate about civil rights, about the Commission, about the history of the Commission, would be free.

COMMISSIONER KIRSANOW: I think in terms of action items, the question is, what does the survey look like and who prepares it, how is it distributed, and with whose assistance, such as DOE -- I think that implicates general counsel taking a look at the legality of -- and I would be surprised if we couldn't partner with DOE to do this.

And clearly the survey is not going to be scientific, but will nonetheless give us some data that we can point to in terms of op-eds and everything else as to where certain deficiencies are with respect to civil rights education in the country.

VICE CHAIR THERNSTROM: On the table right now is what question?

CHAIRMAN REYNOLDS: We're trying to --

VICE CHAIR THERNSTROM: No, no, but I thought you had a specific question. I thought you were on the radio spots.

COMMISSIONER BRACERAS: Well, if it's a question about whether or not to move forward with
paid media, then I'm inclined at this point to vote no. Because I think that in participating in a conference, we can generate free media that the people who care about this stuff will pay more attention to than somebody sitting in traffic listening to talk radio or listening to sports radio.

VICE CHAIR THERNSTROM: Right.

COMMISSIONER BRACERAS: -- paid media and to take another approach.

VICE CHAIR THERNSTROM: I thought the only question on the table was the paid media at the moment.

CHAIRMAN REYNOLDS: That's the one I brought up first, but I was getting to the other issues. So options two and three, if I understand what's transpired, we're going to jettison those options, we're going to go with option one, and then we're going to add this idea --

COMMISSIONER YAKI: What? Excuse me? What's option one?

CHAIRMAN REYNOLDS: The Princeton Conference.

COMMISSIONER YAKI: I object to that.

COMMISSIONER BRACERAS: And why do you object to it?
COMMISSIONER YAKI: Do you really want me to talk about why I object to it?

COMMISSIONER BRACERAS: Yes I do.

VICE CHAIR THERNSTROM: Yes.

COMMISSIONER YAKI: You know, I just think that the person in question --

COMMISSIONER BRACERAS: The person in question being?

COMMISSIONER YAKI: The professor at Princeton.

CHAIRMAN REYNOLDS: Which one?

COMMISSIONER YAKI: Robert George. I have some severe problems with having a conference hosted at Princeton under his auspices.

COMMISSIONER BRACERAS: Well why -- I mean, I would disagree. But given that you feel that way, I mean, is there a way --

COMMISSIONER YAKI: Let me put it another way. Because of his views on certain segments of the American population, I doubt I would participate in such an endeavor.

COMMISSIONER BRACERAS: Well --

CHAIRMAN REYNOLDS: What is so odious about his views?

COMMISSIONER YAKI: I'm not going to get
into it right now. All you have to do is go to his Website and read. It's right there.

COMMISSIONER BRACERAS: Can I be heard please? It seems to me -- well, number one, as Gail said, Princeton can do whatever they want. The question is whether the Commission takes a formal role, or whether individual commissioners can stay informally, which is their choice. But you know, the best conferences are those that are balanced and do have people with strong views on various sides of issues. So to the extent that you're suggesting that somebody with Professor George's views not participate at all, then --

COMMISSIONER YAKI: No, I'm not saying that at all. I'm saying for that to be the host entity, I would prefer --

COMMISSIONER HERIOT: It's actually going to be co-sponsored by Georgetown University and it's going to be held here. It's going to be held here in DC.

COMMISSIONER YAKI: Well that's not what I read. That's not what was in the item.

COMMISSIONER HERIOT: Does that change your view? Does that give you a higher level of comfort?

COMMISSIONER YAKI: I don't know. I have
to look at it. Since it wasn't in the agenda packet, and I did my research based on the agenda packet, I would need to look at it --

VICE CHAIR THERNSTROM: What is the Tocqueville Center?

COMMISSIONER HERIOT: I'm not familiar with them.

COMMISSIONER BRACERAS: Where is the documentation about this agenda item, by the way?

CHAIRMAN REYNOLDS: Was that distributed?

COMMISSIONER YAKI: It's in the motions part.

STAFF DIRECTOR MARCUS: There was a memo that was circulated on this item.

COMMISSIONER YAKI: It was an email, Jennifer. It wasn't in any of the formal agenda materials.

COMMISSIONER BRACERAS: I've followed the discussion. I'm just wondering if there's a specific list to which people are referring, that you have in front of you.

STAFF DIRECTOR MARCUS: We're referring to a list that was provided in an email dated October 10, 2007 at 10:03 a.m.

VICE CHAIR THERNSTROM: Let me ask a
question here. Professor George is obviously a former member of the US Commission on Civil Rights. Who would be setting the agenda and deciding on who was invited to such a conference? It seems to me your comment assumes that he would be.

COMMISSIONER YAKI: Well my comment was based on the fact that the email said it would be held at Princeton under the auspices of blah blah blah, with Professor Robert George, who is part of the leadership of that particular school within Princeton.

VICE CHAIR THERNSTROM: Right, but --

COMMISSIONER YAKI: Having read Mr. George's views on certain things --

VICE CHAIR THERNSTROM: Well, look, at the end of the day, the question is, is Robert George in charge of this event, or are we? And I would hope the answer is we are.

COMMISSIONER HERIOT: Oh, I think that's incorrect. I think this is a program that the Medicine Center, in cooperation with the Tocqueville Center, is putting on about the anniversary. I don't think it's our program.

VICE CHAIR THERNSTROM: I see. All right.

COMMISSIONER YAKI: See, that's what I didn't understand --
VICE CHAIR THERNSTROM: I did not understand that. I thought --

COMMISSIONER BRACERAS: -- the question is, at what level does the Commission want to formally participate, right?

COMMISSIONER HERIOT: I think we would participate as individuals. There's no need for the Commission to --

VICE CHAIR THERNSTROM: Wait a minute. Gail, didn't we start out with a different vision of the Commission, in fact hosting some kind of --

COMMISSIONER YAKI: That's what the email said.

CHAIRMAN REYNOLDS: I thought we were going to co-host the event.

COMMISSIONER HERIOT: I'm certain they would be happy for us to co-host. I'm certain they'd also be happy, you know, not to.

COMMISSIONER BRACERAS: So I guess to answer your --

VICE CHAIR THERNSTROM: This doesn't come out of our budget.

COMMISSIONER BRACERAS: But to respond to Commissioner Yaki's concern, if the Commission were co-hosting and Michael Yaki had, say, an input, and
could work with Robert George and others to help shape this --

COMMISSIONER YAKI: I work with you, Jennifer, so that's a start.

COMMISSIONER BRACERAS: That's my point. If we were supported in that way -- if we were to join them as full partners --

STAFF DIRECTOR MARCUS: I would have to say there may be legal ramifications --

COMMISSIONER YAKI: Right.

STAFF DIRECTOR MARCUS: If we were to try to co-host something and they would pay for it. We would have to look into it, but it would certainly raise questions.

VICE CHAIR THERNSTROM: So that's an uncompensated contribution to the Commission, is what you're saying.

STAFF DIRECTOR MARCUS: At first blush, it sounds like those issues are --

COMMISSIONER BRACERAS: Well, what I think makes most sense is to let the outside groups put on their conference they're going to put on, commissioners can participate as individuals, and it would be my hope that commissioners from both sides of the ideological, political aisle would participate, in
order to give a fuller, more fleshed out view of things. But getting back to what we said before, I would scrap the paid advertising, and you know, go back to the drawing board and try to think of some good survey things.

VICE CHAIR THERNSTROM: Well, I'm unhappy with the idea that the Commission itself is not doing anything to celebrate the anniversary, but instead is, in effect, contracting out the celebration.

COMMISSIONER YAKI: Outsourcing?

VICE CHAIR THERNSTROM: Outsourcing. To, you know, groups that some of us may be more or less comfortable with. I'm not happy with that. I mean this should be a united celebration of the Commission's work.

CHAIRMAN REYNOLDS: Okay. Let's recap for a moment.

COMMISSIONER MELENDEZ: This is Commissioner Melendez, I have a question.

CHAIRMAN REYNOLDS: Yes, Commissioner Melendez?

COMMISSIONER MELENDEZ: Since the Commission anniversary, or the Commission started at the White House, are they kind of involved in the publicity of this anniversary, or --?
CHAIRMAN REYNOLDS: Commissioner Kirsanow, did you look into this as a possibility?

COMMISSIONER KIRSANOW: Yes, I did consult with folks at the White House. I have not heard back from them. I don't know where it stands. I've tried to follow up but have not gotten any definitive word back.

CHAIRMAN REYNOLDS: Okay. So we had looked into the possibility of having some -- having a ceremony at the White House, Commissioner Melendez. But we haven't gotten any reactions from the White House at this point. Okay. Are we in agreement that options two and three are off the table? Two being the radio ads, and option three being the PSAs that would be distributed by a telecommunication company?

VICE CHAIR THERNSTROM: Yes, those are off the table, and I would say that option one -- we've got to discuss this at much greater length. I am not willing to go along with an anniversary celebration in which we are not united as a Commission behind.

COMMISSIONER HERIOT: Well whether you want it as an anniversary celebration, it's not a question of us being united behind it. That's their academic conference that concerns the Commission.

VICE CHAIR THERNSTROM: Well, they can have
an academic conference. We don't have any control over that. But then, if that's what ends up happening, I do think we as a Commission need to find a way of celebrating the anniversary.

CHAIRMAN REYNOLDS: Commissioner Yaki, do you have any suggestions?

COMMISSIONER YAKI: Other than cake?

CHAIRMAN REYNOLDS: In addition to cake.

VICE CHAIR THERNSTROM: What kind of cake? Are we going to argue about that?

COMMISSIONER YAKI: Not at all. I'm very agnostic about cake, as long as it's cake.

COMMISSIONER KIRSANOW: I think we've solved this problem.

COMMISSIONER YAKI: I think that -- I think there's three options. One is, I think we should aggressively pursue a White House strategy. Somewhat because it was a Republican president fifty years ago who put this together. And I think that there is something to be said about having that symmetry fifty years later. Secondly, I think that the idea that of the celebration that Commissioner Thernstrom talks about is something that I originally had thought would sort of be the galvanizing point for the national conference, but now that's pushed back to '09, if I'm
correct, right?

STAFF DIRECTOR MARCUS: I believe the conference has always been scheduled for `09.

COMMISSIONER YAKI: I know, but when I first started this idea, I was hooking it to the fiftieth anniversary.

STAFF DIRECTOR MARCUS: We should probably find a way of hooking it in, as a -- perhaps as a year celebration.

COMMISSIONER YAKI: I think that -- I mean you can either do this symbolically or you can do this substantive. I think the symbolic would be a White House gathering of all the existing, living commissioners and staff directors or whoever, you know, to gather -- to just look at that, and maybe through that, develop a one day symposia retrospective of the work the Commission has done over the years. I mean, that would be, I think, the most ideal thing, because that's how it all started.

I mean, it really started with that great, big, wonderful `61 report that I've read top to bottom and am just amazed by. That to me is really what I would do. I would try and put it together in just one corner, very simple thing. Low key. It could be a stage, and you could have round tables with just
selected commissioners from the decades talking about what they did and how they think it's changed people's lives.

CHAIRMAN REYNOLDS: Okay. So Commissioner Kirsanow, would you follow up with the folks at the White House and see if we can get them to focus on this issue?

COMMISSIONER KIRSANOW: I'll do that, and actually, that was -- what Commissioner Yaki just described is precisely what was being contemplated. When I get back to my office, hopefully later this afternoon, I'll see if I can make some contact, if not, by sometime next week.

CHAIRMAN REYNOLDS: Okay, that was a part of what you just discussed. The other piece being the symposium. Ken, could you have some folks try to reduce what we've been discussing to paper?

COMMISSIONER YAKI: But I think -- and just adding to that -- that's also a great idea. If we could develop even just a simple, ten question test. Because I think about much time we could steal from teachers. But I can imagine each one of us has pretty good contacts with our own education systems, and could probably ask three or four history teachers to do some random tests. It wouldn't be scientific, it

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701
(202) 234-4433
wouldn't be whatever. But it'd be from our own areas. I would come from the San Francisco -- you would come from St. Louis, Gail from San Diego, Peter from Cleveland, you from wherever you are now.

VICE CHAIR THERNSTROM: My contacts are all back in Massachusetts, obviously.

COMMISSIONER YAKI: But it would just be interesting to --

VICE CHAIR THERNSTROM: Get Jay Leno to go out on the street late at night.

COMMISSIONER YAKI: No, that would not be --

VICE CHAIR THERNSTROM: I'm not serious, folks.

COMMISSIONER YAKI: Because when he asks those questions, it's just freaking embarrassing. You know, when he asks do they know who Martin Luther King, Junior is. "Uh, no." Or they'll give some really --

VICE CHAIR THERNSTROM: "Didn't he have something to do with World War Two?"

COMMISSIONER YAKI: "Does he know Jay Z," and that kind of stuff.

COMMISSIONER HERIOT: I think we could adopt this as our fiftieth anniversary project, so
that we say, "Okay, this is our project." I'm sort of behind on what the national conference is. I remember that I've spoken to some of you about having an anniversary, you know, hearing, maybe held on Capitol Hill, and somebody told me that's kind of like our national conference idea. Tell me what the national conference idea is.

CHAIRMAN REYNOLDS: Okay. Before we go down that road, I want to tie this up. The four things that we are going to do. The survey, we're going to try to have a ceremony at the White House, we're going to have a one-day symposium, and commissioners in their individual capacities would be free to participate in the event co-sponsored by Princeton and Georgetown.

COMMISSIONER BRACERAS: And what's the one-day symposium?

CHAIRMAN REYNOLDS: That was just discussed by Commissioner Yaki.

COMMISSIONER YAKI: That was something that the White House could convene, just sort of a round table of --

COMMISSIONER BRACERAS: Oh, so that's in conjunction with the White House meeting.

COMMISSIONER YAKI: Yes.
COMMISSIONER HERIOT: Yes, I would assume the White House is going to want to do one thing and not two things.

COMMISSIONER BRACERAS: Yes, that's what I'm getting at.

VICE CHAIR THERNSTROM: I would assume that the White House is going to want to do something very limited.

CHAIRMAN REYNOLDS: Yes, I agree. I think that they want to do just a ceremony and get us out of there.

COMMISSIONER KIRSANOW: I think it would be something that would be held in the East Room. Possibly all living commissioners would at least be invited. There might be a few words by the President or his designee. Maybe prepare to across the hall for some hor dourves.

COMMISSIONER BRACERAS: I mean, that combined with the survey results would generate a lot of publicity.

COMMISSIONER HERIOT: It's not going to be at the same time. The first one will be at the White House's convenience, and it might be rather soon, I would think.

VICE CHAIR THERNSTROM: And the White House
events of this sort in the past, commemorating, for instance, the '64 act, did not get a lot of publicity.

COMMISSIONER HERIOT: And remember we've got several anniversaries. We've got the anniversary of the date, which is like in fifteen minutes, unfortunately. We've got the anniversary of the date that Eisenhower trotted out his nominees for the Commission. And that's November.

CHAIRMAN REYNOLDS: November 15th, wasn't it?

COMMISSIONER HERIOT: something like that. And then there's the anniversary of the first Commission meeting, and that's January. And that's why we can call all of 2008 -- that's our anniversary year. And everything we do could be, you know, related to this, could be our anniversary project, of ensuring civil rights literacy among young Americans.

CHAIRMAN REYNOLDS: Okay. So those are the issues. We have a consensus. And you wanted further discussion on the conference that will be held in 2009.

COMMISSIONER HERIOT: Just tell me what the national conference is so that I can figure out how that fits in with what I want to do.

CHAIRMAN REYNOLDS: Mr. Staff Director?
STAFF DIRECTOR MARCUS: Sure. There's a brief description on page twelve of the strategic plan, and it's short, so I'll just read it from the third full paragraph. The Commission is planning to hold a national conference which endeavors to be a significant convening of scholars, practitioners, policy makers, and issue specialists, addressing broad civil rights themes. The Commission will seek to draw at least one hundred civil rights practitioners, experts, and others to the conference.

In addition to broad discussions of civil rights, sessions will be held on discrete topics drawn from the responses of the SACs and pending matters before Congress. The conference will result in a report of findings entitled civil rights priorities for the 21st century.

COMMISSIONER HERIOT: Yes, I've read that. But that's the whole plan at this point?

CHAIRMAN REYNOLDS: That's about it.

STAFF DIRECTOR MARCUS: There's been things that have been agreed to beyond that. I think at a staff level we are working up various alternatives to how to flesh this out.

CHAIRMAN REYNOLDS: We just have a concept right now.
COMMISSIONER HERIOT: Okay. So that's 2009.

STAFF DIRECTOR MARCUS: Yes.

COMMISSIONER HERIOT: Okay. My idea that's sort of overlapping was to have a hearing/briefing, whatever it should be called -- I don't know -- that simply is more elaborate than usual. Where we simply hear from civil rights leaders, have them talk to us for fifteen minutes each, perhaps, on their vision of civil rights in the next half century, or civil rights in the 21st century, and hold that as our anniversary event in January. Someplace where it would look nice and we could say nice things about the anniversary.

STAFF DIRECTOR MARCUS: I'm sorry, how is that different than the national conference?

COMMISSIONER HERIOT: It's smaller.

COMMISSIONER BRACERAS: It's smaller and more streamlined, but very similar.

STAFF DIRECTOR MARCUS: And of course, the extent to which the 2009 conference is larger will depend on the appropriations that we get. So it could end up being large scale, or it could be something somewhat similar to what you just described.

COMMISSIONER HERIOT: Yes, I'm just thinking that we ought to have some event that is the
anniversary event, that occurs in 2008.

CHAIRMAN REYNOLDS: Comments?

STAFF DIRECTOR MARCUS: Maybe I missed something, but Commissioner Yaki had the idea for the symposium involving commissioners. In the event that the White House is not interested in doing that, perhaps that's the sort of thing that we could do that would be very different from the conference.

COMMISSIONER YAKI: Yes, I like that.

CHAIRMAN REYNOLDS: Well, but your idea was to have past commissioners and other folks involved with the Commission coming and talking about their experience, versus what Commissioner Heriot's brought up, where people come in and talk about what civil rights should be in the 21st century. One is essentially looking at what's been done in the past, and the other one is looking at what should be done going forward. So I don't see them as interchangeable.

COMMISSIONER YAKI: Well, I think in terms of happy, I think the formal would lend itself to a non-controversial day in which people from the past could have an opportunity to talk about -- I think that the forward is really what the national conference is really more about. And what we fight
about every day.

COMMISSIONER KIRSANOW: Despite that, the symposium of former commissioners would necessarily have some of them talking about what they expect civil rights to look like in the next fifty years. But it wouldn't be the focus of it.

CHAIRMAN REYNOLDS: Okay. Ken, please have someone try to get this down in writing. We've discussed various ideas, and I think it would be useful if we all could actually -- you know, if we had a document that we could read and edit.

STAFF DIRECTOR MARCUS: I'd be happy to.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: This may be the sort of thing we could schedule a teleconference on.

CHAIRMAN REYNOLDS: Okay, next up, I move that the Commission adopt the revised information quality guidelines distributed to commissioners on August 16th, 2007, and again on October 4th, 2007. Approval of this motion will also authorize the staff director to send the information quality guidelines to the federal register for final notice and publication.

These guidelines were distributed for consideration at the August 24th, 2007 business meeting, at which commissioners tabled them until this
meeting at Commissioner Yaki's request. Is there a second?

COMMISSIONER KIRSANOW: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER MELENDEZ: Have there been some changes to this document, and has it been fully reviewed by the general counsel?

CHAIRMAN REYNOLDS: Okay. Have we altered the document since the last meeting?

STAFF DIRECTOR MARCUS: There have been no changes since the last meeting, which was the meeting at which this document was tabled. However, there were changes made since the prior time at which the Commission reviewed and voted on the document. And the changes that have been made since that point should be indicated in the red-lining through the document. Generally speaking, the changes were made as a result of OMB review.

OMB raised certain questions about whether our guidelines were fully compliant and consistent with federal policies. And so we've made just a few changes to comply with that. I don't think that OMB's comments have any ramifications with respect to A.I. 1-6.

CHAIRMAN REYNOLDS: Commissioner Yaki?
COMMISSIONER YAKI: Thank you, Mr. Chair. Has there been some change in the -- what qualifies for OGC review?

STAFF DIRECTOR MARCUS: I believe that is right. I'm going to have to find it, but I believe that there is a change for OGC review, and it would relate to testimony before Congress. Let me try to flip through this.

COMMISSIONER YAKI: I was trying to find it, and it's so --

STAFF DIRECTOR MARCUS: Yes. I do recall that there is testimony before Congress that would be sponsored by the Commission, thank you, and that would now require OGC review.

COMMISSIONER YAKI: Those are exemptions.

STAFF DIRECTOR MARCUS: Is Mr. Horn on the line?

MR. HORNE: I am.

STAFF DIRECTOR MARCUS: Is there a page number that you can refer us to? Oh, is it on page ten?

MR. HORNE: It's section four, page ten.

STAFF DIRECTOR MARCUS: Okay. Page ten -- On section Roman numeral four, subsection 1G, we had previously provided that testimony or comments of
Commission officials before courts and administrative bodies, Congress, or the media, would not apply here and would -- and because they would not be defined as information, the review would not be required. OMB objected to that, indicating that there are some cases in which Commission testimony before Congress is information of the sort that should be covered by information quality guidelines.

So the new language indicates that testimony of Commission officials before courts, administrative bodies, Congress, or the media, is not covered information, unless the testimony contains new substantive information not previously disseminated. However, this information, testified to before Congress, would apply to testimony that is sponsored by the agency.

In other words, it refers to information that the agency, as the agency, is providing, as opposed to information that an individual commissioner is providing based on his opinion or her opinion.

COMMISSIONER YAKI: Why isn't that made more clear?

STAFF DIRECTOR MARCUS: Well, I think it is in here. Mr. Horne, is there a particular page that I can point to?
MR. HORNE: Well, sure, it's the beginning of section four, number one. It's the scope and applicability of the guidelines is information and dissemination. And dissemination is defined in 4.03. Which means Commission sponsors distribution of information. Now what dissemination does not cover -- OMB released guidelines in 2002, February, that address exactly what it means when an agency responds with information. And that means either -- we've either directed a third party to disseminate the information, we are initiating the dissemination of the information, or we have the authority to review and approve the information before release.

COMMISSIONER YAKI: So my half-cocked opinions aren't covered?

MR. HORNE: That's correct.

STAFF DIRECTOR MARCUS: Okay.

CHAIRMAN REYNOLDS: You're free to share them with the world.

COMMISSIONER YAKI: That's all I care about.

CHAIRMAN REYNOLDS: Commissioner Melendez, do you have any additional questions?

COMMISSIONER MELENDEZ: Yes, going to page number seven, the document says that administrative
instruction 1-6, national project development and implementation at section 15, provides that the staff director will appoint members of an editorial policy board to release nation reports to determine the adequacy and accuracy of the substantial information in the draft document. However, per Chairman Reynolds' motion in April, the staff director no longer has to do an editorial review for briefing reports. So the guidelines appear to be not correct.

CHAIRMAN REYNOLDS: I'm sorry.

STAFF DIRECTOR MARCUS: I think that Commissioner Melendez is referring to the old controversy as to whether A.I. 1-6 previously imposed editorial review board review requirements on briefing reports or not. And I believe, as I recall, it was Commissioner Melendez's view that the requirement did apply, and the view of other commissioners that it did not apply. A few months ago, there was a vote on this issue and it was determined that it would not apply, except as the staff director on a case by case basis determined that it would be necessary.

So if I heard Commissioner Melendez's comment correctly, he's indicating that he thinks that there has been a change in the A.I. 1-6, in the sense
that our current policy is not consistent with his understanding of the former policy. Is that it, did I understand that correctly?

COMMISSIONER MELENDEZ: Right. I guess the question is -- did Chairman Reynolds make a motion in April saying that staff director no longer has to do an editorial review board briefing report.

STAFF DIRECTOR MARCUS: No, I don't believe there was ever such a motion that referred to "no longer required." As I recall, the motion was to what the require would be going forward. Whether such a requirement existed in past times, as I recall, was an issue as to which there was disagreement among the commissioners. So this would be a change only if one accepts certain of the historical views of the prior version of A.I. 1-6 that were not adopted by the Commission a few months ago.

CHAIRMAN REYNOLDS: Okay, Commissioner Melendez, that address your --

COMMISSIONER MELENDEZ: I just wanted to raise the question.


STAFF DIRECTOR MARCUS: Commissioner Melendez, I would ask that when you speak, you try to
be a little louder. I know that the court reporter has been having some difficulty. May I ask the court reporter whether she's been able to catch his most recent comments. Commissioner Melendez, would you like to repeat what you've just said for the benefit of the court reporter?

COMMISSIONER MELENDEZ: Yes, my main concern was that I thought that Chairman Reynolds' motion in April required that the staff director no longer had to do an editorial review or briefing report, so in essence, the guidelines as written are currently not right.

CHAIRMAN REYNOLDS: Okay.

STAFF DIRECTOR MARCUS: Just so I understand, there may be disagreement among the commissioners as to whether there was in fact a change. The term "no longer" was not in the motion a few months ago, and I don't believe that there is any reference to briefing reports here in this document, and I would read it as being consistent with the historical understanding that national reports within the meeting of this AI did not apply to briefing reports.

But if Commissioner Melendez is suggesting that we need some sort of clarification in this -- I'm
not sure if I understand.

COMMISSIONER MELENDEZ: Yes, I would.

CHAIRMAN REYNOLDS: Well, isn't this an issue that we've debated on several occasions, whether --

VICE CHAIR THERNSTROM: Yes, it is.

STAFF DIRECTOR MARCUS: Yes.

COMMISSIONER MELENDEZ: I'm just stating my concern.

CHAIRMAN REYNOLDS: Okay. You've been duly recorded. Next up. I guess we'll have to wait until Mr. Yaki returns for the vote.

VICE CHAIR THERNSTROM: I think we should go ahead with the vote. He's on the phone, so we don't know how long he'll take. Or we'll come back to the vote. But we shouldn't just sit here until he gets off the phone.

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

(Chorus of ayes)

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: Opposed.

CHAIRMAN REYNOLDS: Okay. Please let the record reflect that Commissioner Yaki did not vote, Commissioner Melendez voted against the motion, and
the remaining commissioners voted in favor. The motion passes.

COMMISSIONER YAKI: No? Yes? Abstain?

VICE CHAIR THERNSTROM: We just voted, and you voted yes.

VI. Program Planning

CHAIRMAN REYNOLDS: Okay. One amendment to the agenda that I forgot to make was a consideration of the proposed debate on race and intelligence. Due to the fact that we've run out of time, and also, I think, that it would be inappropriate to move the briefing that we had scheduled in November. I move that we table discussion on that issue.

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Discussion? All in favor, please say aye.

(Chorus of ayes)

CHAIRMAN REYNOLDS: The motion passes unanimously.

Okay. I move that the Commission approve for publication along with any concurring and dissenting statements submitted by any commissioner by October 26th, 2007, part A of the report produced by staff and reflecting commissioner and panelist input on the briefing the Commission held on April 7th, 2006.

NEAL R. GROSS
COURT REPORTERS AND TIRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
(202) 234-4433
WASHINGTON, D.C. 20005-3701
(202) 234-4433
on racial categorization in the 2010 census, part A as
distributed in draft form to commissioners on October
4th, 2007, contains the following.

A brief overview and summary of the issue
and why the Commission chose to conduct this briefing,
a summary of the proceedings, and consisting of a
synopses of the panelists' oral statements during the
briefing, and a synopsis of the question and answer
sessions, and copies of the panelists' written
statements. Under this motion, if a majority of the
Commission votes to adopt part A of the briefing
report, the Commission will then open discussion on
part B. If part A fails to obtain a majority of
votes, the discussion of part B becomes moot. Is
there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN REYNOLDS: Okay, discussion?

Nothing?

COMMISSIONER HERIOT: We're talking about
the body of the report now?

CHAIRMAN REYNOLDS: The body of the report.

COMMISSIONER HERIOT: One thing is that we
consistently refer to Ward Connerly as Dr. Connerly.
I am unaware of a doctorate that --

VICE CHAIR THERNSTROM: No, he doesn't have
a doctorate.

CHAIRMAN REYNOLDS: Okay. I assume that there are no objections to making that correction. Mr. Yaki?

VICE CHAIR THERNSTROM: I didn't even notice that.

COMMISSIONER YAKI: I was just wondering if he was claiming a new mantle.

COMMISSIONER HERIOT: There's also a typo in footnote three.

VICE CHAIR THERNSTROM: Oh, yes.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: Did we get that?

CHAIRMAN REYNOLDS: Anything else?

COMMISSIONER BRACERAS: In the summary? Got everything up to page --

COMMISSIONER HERIOT: Up at footnote 68. I don't have page numbers on this. Vice Chair Ternstrom stated that a religious question is a testable proposition. I wasn't sure whether that was a proper summary of whatever it is that -- because it doesn't make any sense to me. On the very bottom of the page, it's the page that has footnotes 58 through 68.

VICE CHAIR THERNSTROM: Okay. I skinned
this yesterday, and you obviously did a better job
reading it than I did.

CHAIRMAN REYNOLDS: Okay, Dr. Thernstrom, is that an accurate --

VICE CHAIR THERNSTROM: I'm just looking. I'm trying to find that.

COMMISSIONER HERIOT: I think what happened is, the paragraph says, "returning to the issue of a religious question, Commissioner Yaki posited that the non-response rate would go up considerably if questions on religion were included in the census, and that religious briefs are so intrinsically personal that problems would arise if people were forced to reply to such questions. Vice Chair --"

VICE CHAIR THERNSTROM: I see it. I would actually like to see the original transcript there.

COMMISSIONER HERIOT: Yes, I suspected what you said was whether the non-response rate would go up is a testable proposition.

VICE CHAIR THERNSTROM: Right, right. I would like to see the transcript. I don't like that sentence. Nobody else is going to be able to translate it either. I have no idea what it says as it stands.

CHAIRMAN REYNOLDS: Okay. And going to --
flip over to the page that has footnotes 25 through 31, the last full paragraph, fourth line down at the end of the sentence. It currently reads, "And thus that any." I think we need to lose the word "that."

VICE CHAIR THERNSTROM: Right. And I see that sometimes Ward Connerly is Mr. Connerly.

COMMISSIONER BRACERAS: Can I just make small point?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER BRACERAS: The first page of the executive summary, "The following people offered their expertise on one, two, three." Under number two, shouldn't that say the usefulness of alternate categories? There's just something about the construction of that phrase that bothers me.

CHAIRMAN REYNOLDS: I'm sorry, where's the language located?

COMMISSIONER BRACERAS: It's in the executive summary, number two. It lists sort of three things that the panelists opined on.

CHAIRMAN REYNOLDS: Got you.

COMMISSIONER BRACERAS: And number two says "the usefulness of alternatives or no racial categories." That's just, I don't know. That construction seems a little awkward to me. I don't
know if anybody has any other ideas, but number one says the usefulness of current racial categories. Maybe number two should say the possibility -- I'm just thinking out loud. Proposed alternate? Forget the usefulness of it, I guess, and just say alternative racial categories. I don't know, maybe somebody can play with that. It's just awkward to me.

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: I don't like usefulness as a word. I think that's the beginning of the problem, in not only one, but two as well.

COMMISSIONER BRACERAS: Yes. That's exactly what I'm saying.

VICE CHAIR THERNSTROM: I mean, you want -- degree to which current racial categories in the 2010 census are useful. But usefulness is a terrible word.

COMMISSIONER BRACERAS: Should we just say utility?

VICE CHAIR THERNSTROM: No. You could say legitimacy.

COMMISSIONER BRACERAS: Legitimacy.

COMMISSIONER HERIOT: That has a different meaning.

VICE CHAIR THERNSTROM: It has a different meaning, but it is what we're talking about, really.
COMMISSIONER HERIOT: It's not the only thing that's being discussed.

COMMISSIONER BRACERAS: Accuracy?

COMMISSIONER HERIOT: That's not the only thing either.

COMMISSIONER BRACERAS: Well how about not having a word like that at all? And just saying they offered their expertise on one, current racial categories in the 2010 census. Two, proposed alternative categories for the 2010 census.

CHAIRMAN REYNOLDS: That works. At least for me. Okay.

COMMISSIONER BRACERAS: All right, so they opined on the current racial categories and proposed alternatives.

VICE CHAIR THERNSTROM: I don't like opined.

COMMISSIONER BRACERAS: No, it doesn't say opined. I'm just --

VICE CHAIR THERNSTROM: Right.

COMMISSIONER BRACERAS: They offered their expertise on one, the current racial categories in the 2010 census; two --

VICE CHAIR THERNSTROM: Alternative or no racial categories. Good. We don't need the
usefulness in either case. Just cut it.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER BRACERAS: That doesn't completely solve my problem. Part of what bothers me is alternative or no.

VICE CHAIR THERNSTROM: Yes.

COMMISSIONER BRACERAS: Alternative categories?

VICE CHAIR THERNSTROM: Alternative or the elimination of --

COMMISSIONER BRACERAS: Okay, alternative categories or the elimination.

COMMISSIONER HERIOT: How about doing one, two, three, instead of one, two on this? And then just move the numbers. So the first one is alternative racial categories, and the third is the elimination of racial categories.

COMMISSIONER BRACERAS: Yes. I would say proposed elimination. And proposed alternatives, right?

VICE CHAIR THERNSTROM: Right.

COMMISSIONER BRACERAS: So they offered their expertise on one, current racial categories in the 2010 census. Two, proposed alternative racial categories in the 2010 census. Three, proposed
elimination of racial categories in the 2010 census. And four, the legal and policy implications of blah, blah.

VICE CHAIR THERNSTROM: Okay.

COMMISSIONER BRACERAS: So there are now four things -- four numbered items. Does that work for everybody?

VICE CHAIR THERNSTROM: Or you could have just the alteration in all of them. Back to three. Either one.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER BRACERAS: I do think -- I agree with Gail that it should be broken up, because those are two separate things. One is recommending changes to current categories, the other one is eliminating categories.

VICE CHAIR THERNSTROM: That's fine.

COMMISSIONER BRACERAS: I think it was grammatically awkward to me because they were together.

CHAIRMAN REYNOLDS: Okay, if we're finished there, please flip to the page that has footnotes 32 through 39. Second paragraph, fourth line, the language that's somewhat awkward -- it reads, "And cease the withholding of the multiracial box as
imposing categorization on individuals." I believe it should say "imposing a category on individuals," or some other phrase to make it read a little better.

VICE CHAIR THERNSTROM: It's an awful sentence.

COMMISSIONER HERIOT: Yes, that's an awful sentence, top to bottom.

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: Okay, would someone like to author a fix? If the one that I put on the table is not sufficient.

COMMISSIONER YAKI: Well, the question is if it's verbatim from the speaker, do we have a problem?

CHAIRMAN REYNOLDS: Well, if it's a quote, then it should remain as is, in my view. I didn't believe that this was -- I thought that this was a summary.

COMMISSIONER YAKI: I hope so.

VICE CHAIR THERNSTROM: What you're really saying there is that eliminating the option of a multiracial box violates an individual -- has the potential to violate an individual's sense of self-identity.

COMMISSIONER HERIOT: I also wonder whether
he actually did say that he thought it was pre-

eminent.

COMMISSIONER BRACERAS: I have a quick
question. Are these summaries reviewed by the
panelists themselves?

VICE CHAIR THERNSTROM: They used to be,
always.

STAFF DIRECTOR MARCUS: The summaries are
not, typically reviewed.

VICE CHAIR THERNSTROM: Well, they really
should be.

COMMISSIONER YAKI: I thought they were. I
always thought they were.

STAFF DIRECTOR MARCUS: The transcript is
reviewed.

COMMISSIONER BRACERAS: The transcript is
reviewed, but just out of curiosity, because my
assumption had always been that they were reviewed by
the panel.

COMMISSIONER YAKI: In fact, I remember
asking one panelist on one item whether he or she had
reviewed their summary, and they said they had and
offered corrections. And so I presumed that that is
how it has followed since then.

COMMISSIONER HERIOT: I have no
recollection of seeing a summary when I testified here.

COMMISSIONER BRACERAS: That raises another question that I'm just sort of curious about, which is, have any panelists ever -- after we've published a report -- complained about the way their testimony was described?

COMMISSIONER YAKI: Yes.

VICE CHAIR THERNSTROM: And I've certainly seen summaries that I've thought, "gee, I assume this person has the opportunity to alter this summary, because it certainly doesn't do the person justice."

CHAIRMAN REYNOLDS: But I was under the impression that the summary was sent as well. The one person I remember talking to, because I said, does this summary summarize what you said, and she said, "Yes, it did okay. I sent in a few suggestions."

COMMISSIONER BRACERAS: I have to say I'm surprised, because I'm not sure why I assumed that they were, but I did assume that they were. And I know if I were a panelist and my testimony was being summarized and I didn't have a chance to eyeball it, that would greatly concern me.

VICE CHAIR THERNSTROM: Yes, I agree with that.
CHAIRMAN REYNOLDS: Okay, so as a change in procedure, I believe we have consensus that summaries of testimony will be shipped along with.

STAFF DIRECTOR MARCUS: Well, this raises a broader question which the Commissioner informally raised with me that I think probably is worth considering and I'm not sure whether this is the right time or not, which is the question as to whether it is sufficiently valuable for us to provide summaries of the testimony at all and when it was first raised to me I was a little surprised but it does occur to me that there are certainly arguments on both ends of it.

On the one -- I'm sorry.

COMMISSIONER BRACERAS: Well, of course, we -- it seems to me a no-brainer that we would summarize the testimony because nobody is going to wade through the actual transcript, let's be realistic.

STAFF DIRECTOR MARCUS: Well, I don't thing it's --

COMMISSIONER BRACERAS: And --

STAFF DIRECTOR MARCUS: The reason that I think it's a no-brainer is that we print the written statement itself.

COMMISSIONER HERIOT: Which I think would

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701
(202) 234-4433
tend to be better than the --

STAFF DIRECTOR MARCUS: So the question is whether it is unnecessarily redundant to provide both the written statement and also a summary of the oral statement. Now --

COMMISSIONER BRACERAS: Right, but what it does is it distracts the causeway between the Commissioners and the Presenter.

STAFF DIRECTOR MARCUS: Well, that's a separate question. The question is not whether we should eliminate the summary of the dialogue that ensues after the oral statements. The question is whether we need to provide both a summary of the witness' oral statement, plus a verbatim of the written statement.

COMMISSIONER HERIOT: Especially when you consider the witnesses are basically summarizing their written statement anyway, so then you get a summary of a summary. And it seems to me it's a lot of work for nothing and --

COMMISSIONER BRACERAS: Yeah, I agree. Yeah, can't we just do the written statement and then have a summary of --

COMMISSIONER HERIOT: Yeah, put those up front. The written statements ought to be privileged
in the sense that more effort has gone into those.

STAFF DIRECTOR MARCUS: I think we --

COMMISSIONER HERIOT: They ought to be put first.

STAFF DIRECTOR MARCUS: I think we can.

Now, just for the purpose of hearing the pros and cons out there, are some witnesses who do give very different oral than written statements.

VICE CHAIR THERNSTROM: Yeah.

STAFF DIRECTOR MARCUS: And to the extent that that ever happens, the dialogue with the Commissioners can be based on the oral as opposed to the written.

COMMISSIONER HERIOT: Yeah.

STAFF DIRECTOR MARCUS: There are some times when the summary of the oral does make a difference. On the other hand, that's seems to be a rarity.

COMMISSIONER HERIOT: And we've got the transcript of that. Yeah. We've got the transcript of that.

STAFF DIRECTOR MARCUS: It seems to be a rarity.

VICE CHAIR THERNSTROM: Yes, but we've got a summary of the transcript here, for what we're
already doing but I do think that this summary of the discussion has to be approved by both the witnesses and the Commissioners.

CHAIRMAN REYNOLDS: Okay.

STAFF DIRECTOR MARCUS: Do we want a consensus or should we not?

CHAIRMAN REYNOLDS: But just to be clear, we want to start that with this document as opposed to that rule becoming effective with the next document.

VICE CHAIR THERNSTROM: You know, I think if we can, on a very short leash, people should be able to look at what is being said about what they testified.

CHAIRMAN REYNOLDS: Mr. Yaki?

COMMISSIONER YAKI: If I may add a fact I was going to bring up at the next section, but which may have some impact on whether we apply it to this or not; the report does not indicate, at least it does not seem to indicate nor does it include the fact that the discussions about the panel testing that the census was going to be doing, they talk about it in an April 2006 -- oh, my God it was that long ago -- and but they completed them and they had results and they've been peer reviewed and gone through a number of different steps to the point where the census has
abandoned some of the statements that it was -- some
of the possible conclusions it was making with regard
to its testimony.

To be specific, on the proposed contract
on race and Hispanic origin, some of the panel's panel
tested showed quite significant drops in responses for
Hispanic, Asian, Native Hawaiian and the Pacific
Islander groups such that the three question format
test that they were looking at that was eluded to in
the testimony and shown in one of the slides was
deemed untenable at this point in time by the Census
Bureau and I think that's something that probably
should be incorporated in the analysis if we're going
to because it's otherwise we're really having a very
stale report.

COMMISSIONER BRACERAS: I agree with that.

CHAIRMAN REYNOLDS: Okay, I think that the
vote should be tabled. Is there a second?

COMMISSIONER YAKI: Second.

CHAIRMAN REYNOLDS: Okay, and the idea is
that the document will be revised to incorporate the
changes that we discussed and in addition to update
the report to see if the statements and conclusions
reached at the briefing are still supported by the
panelists.
COMMISSIONER YAKI: Will it would be with
the Census Bureau test.

CHAIRMAN REYNOLDS: Well --

COMMISSIONER YAKI: It might have an
impact on what our conclusions would be, yeah.

CHAIRMAN REYNOLDS: I see a frown.

Commissioner Heriot.

COMMISSIONER HERIOT: I'm a little
confused here. What is it we're looking to update?

CHAIRMAN REYNOLDS: Apparently -- I was
absent from this particular meeting, but apparently
the Census Bureau were testing certain questions and
according to Commissioner Yaki, the response was not
good enough and they have since changed their position
with respect to come of the statements that they made
at the briefing.

COMMISSIONER HERIOT: Well, we have that
on -- this is not maybe this happened, but this has
happened?

COMMISSIONER YAKI: Yeah, yeah, yeah, yes.

COMMISSIONER HERIOT: Okay, okay. That's
fine.

CHAIRMAN REYNOLDS: So that and --

COMMISSIONER YAKI: This mission was --

(Laughter)
VICE CHAIR THERNSTROM: We're already too late to effect the next census, so you know, you're right.

CHAIRMAN REYNOLDS: And there is an agreement that the documents should be circulated also to the panelists so they can --

COMMISSIONER YAKI: Yes, yes.

COMMISSIONER BRACERAS: Well, right.

COMMISSIONER YAKI: And I'm sure the Census Bureau guy will look at it and go, "Well, we completed those tests. That should be updated to" --

CHAIRMAN REYNOLDS: Yeah.

COMMISSIONER YAKI: Right. So I seconded the motion to table.

COMMISSIONER HERIOT: Are we tabling the vote? We're not tabling the discussion, though, are we?

VICE CHAIR THERNSTROM: Aren't we going to have a discussion on the findings and recommendations?

COMMISSIONER HERIOT: Yeah, we need to have a discussion.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: There are things, no matter what they say, what they tell us about, you know, their recent tests, we still need to get a sense
of what we think about the issue here and the
potential recommendations.

CHAIRMAN REYNOLDS: Okay, well, if that's
the case, then let's discuss the findings and
recommendations.

COMMISSIONER YAKI: Point of order. I'll
talk about it in the thing, apparently because to me,
part of the -- how will we proceed with examining the
findings and recommendations if we know that one
particular part of those findings and recommendations
is not at least for now, may be substantially
different than what was initially posited during the
discussion? It seems that we're --

COMMISSIONER HERIOT: There are other
reasons for disagreeing with the recommendations and
findings that we could take those issues completed off
the table or we may have a substantial agreement. I
don't know.

VICE CHAIR THERNSTROM: Yes, you do.

COMMISSIONER HERIOT: I know that I don't
agree with you, but I'm sure that we'll be able to
come to agreement about the 1790 census regardless of
what the Census Bureau wants to do now.

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: Okay, at this point,
do you want to discuss that issue?

COMMISSIONER HERIOT: Have we finished talking about, you know, nits in Part A yet? Does anybody else have any?

COMMISSIONER MELENDEZ: Commissioner Melendez. Could we get outside organizations, did they submit public comments on this report and were they included in the report?

CHAIRMAN REYNOLDS: Ken?

STAFF DIRECTOR MARCUS: I'm sorry, I didn't hear the question.

COMMISSIONER MELENDEZ: Commissioner Melendez. I believe outside organizations submitted public comment on this report. However (inaudible)

STAFF DIRECTOR MARCUS: Yeah, I'm not aware of any public comments. This is an OGC report and the General Counsel informs we did not receive comments.

COMMISSIONER MELENDEZ: Okay, I thought that maybe the Office of Hawaiian Affairs sent something in.

STAFF DIRECTOR MARCUS: I think there might be a representative of Office of Hawaiian Affairs indicating they did send something in. We can look for it and if the Office of Hawaiian Affairs,
perhaps, could resend their comments.

COMMISSIONER HERIOT: Did you bring a copy today?

CHAIRMAN REYNOLDS: Mr. Metz, any other suggested revisions?

COMMISSIONER HERIOT: Just one little note I just checked. Exhibit A to Sharon Lee, select all that applies, I just want to make sure that's the way it was and not that we're not introducing all into it. And then down there further on the page where it says, "Is this person....?" there should be only three dots not four dots, but I'm perfectly happy to put it her way if she gave us four dots.

CHAIRMAN REYNOLDS: Okay, so let's just make sure that --

VICE CHAIR THERNSTROM: It should be corrected. If she put four dots, it's incorrect, it should be three. It should be corrected because a reader is not going to think she made an error. They're going to think we made an error.

CHAIRMAN REYNOLDS: Yeah, that's a good point.

COMMISSIONER HERIOT: Okay, let's look through it and correct her errors because there are some.
VICE CHAIR THERNSTROM: I didn't think she made the error. It doesn't matter, it's not going to be read that way and I'm sure she would appreciate it being correct.

CHAIRMAN REYNOLDS: Other comments?

COMMISSIONER MELENDEZ: Yes, was this report submitted to other organizations like the Census Bureau or the Census Bureau's Race and Ethnicity Advisory Committee for comments?

STAFF DIRECTOR MARCUS: I believe it was sent to the Census Bureau as part of the effected agency review. General Counsel has confirmed this.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

Commissioner Yaki, anything?

COMMISSIONER YAKI: No.

COMMISSIONER KIRSANOW: No.

VICE CHAIR THERNSTROM: No

CHAIRMAN REYNOLDS: Commissioner Braceras?

COMMISSIONER BRACERAS: No.

CHAIRMAN REYNOLDS: Commissioner Heriot, you're still looking?

COMMISSIONER HERIOT: I'm up to findings now.

CHAIRMAN REYNOLDS: Okay. All right. How about this, I'll just read the findings and we can
discuss it, we can discuss each of the findings. "The
Census Bureau collects information and provides
statistics necessary to implement national policy
based on specific statutory or programmatic
requirements and congressional or judicial mandate."
That's Finding Number 1. Any comments?

COMMISSIONER HERIOT: We're not voting on
this, right?

CHAIRMAN REYNOLDS: That's correct.

COMMISSIONER HERIOT: Okay.

CHAIRMAN REYNOLDS: Okay, Finding Number
2; "Today Census Bureau officials view the primary
purpose of gathering racial statistics and collecting
data to facilitate the enforcement of civil rights
laws. Some view a secondary purpose of gathering
racial statistics as providing a portrait of society
to determine whether progress is being made in the
effort to overcome past discrimination."

COMMISSIONER YAKI: I think that needs to
be rewritten entirely.

VICE CHAIR THERNSTROM: I mean, the
primary purpose of gathering the census is to have a
demographic portrait of America.

COMMISSIONER YAKI: Right.

VICE CHAIR THERNSTROM: Regardless of what
the policy implications of that --

COMMISSIONER YAKI: The policy implications are for the distribution of government programs and benefits. I mean, it's for gathering data on all sorts of things that are relevant to government programs. To say that it's to serve a secondary purpose is to diminish the importance of what these numbers mean to the Federal Government because every agency in the Federal Government relies heavily on the Census Bureau numbers for any number or variety of its programs and I think that you know --

COMMISSIONER HERIOT: I also object to the whole concept of that finding. I don't care what the Census Bureau officials view this as, you know. Why are we having a finding of what their view of it is?

VICE CHAIR THERNSTROM: But also, I mean, the public policy implications are secondary. The first point of the census is to create a portrait of changing America.

COMMISSIONER HERIOT: You know, I don't care. I don't want to say what the Census Bureau things. And I don't even want to say what we think.

VICE CHAIR THERNSTROM: Well, but I mean, you know, I mean, there's no doubt that that's why a census began.
COMMISSIONER YAKI: Well, since it's in the Constitution.

VICE CHAIR THERNSTROM: And it's in the Constitution. It wasn't in order to enable federal agencies to enforce the discrimination law that was originally in the Constitution.

COMMISSIONER HERIOT: Yeah, but --

VICE CHAIR THERNSTROM: There are --

COMMISSIONER HERIOT: They want to be able to know how many electoral votes and how many congressional districts.

VICE CHAIR THERNSTROM: But whatever. The first statement to make is the point of the census is to draw a portrait of America.

COMMISSIONER HERIOT: No, that sounds like it's sort of artistic.

VICE CHAIR THERNSTROM: No.

COMMISSIONER HERIOT: I'd like to know how many votes North Carolina would get.

COMMISSIONER YAKI: I don't know if it's on purpose but Vice Chair Thernstrom is correct, what it's used for and you actually used words that are actually not inaccurate in that it is a sort of artistic attempt in order to figure out what this country is all about and what makes it tick and how it
works and what people do and how they do it and where
they live and all sorts of things that are --

VICE CHAIR THERNSTROM: What I refer to is
--

COMMISSIONER YAKI: Like who we are and
where we -- right.

CHAIRMAN REYNOLDS: How about --

COMMISSIONER BRACERAS: Where we've been
and where we are going.

COMMISSIONER YAKI: Exactly.

CHAIRMAN REYNOLDS: How about revising
that finding so that we talk about -- or we get rid of
the notion of a primary and secondary purpose,
al though if there is a primary purpose in my view,
it's the reasons it was embedded in the Constitution.

COMMISSIONER YAKI: It was to give
California more electoral votes than anybody else.

CHAIRMAN REYNOLDS: But in any event, is
there agreement that we should take another tact.

COMMISSIONER YAKI: Yes.

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN REYNOLDS: At this point, I would
like to -- I had two additional findings that I'd like
to offer. The first is, "It would mean statistical
proportionality does not necessarily mean the absence
of discrimination."

COMMISSIONER HERIOT: Wait, let's go back here.

VICE CHAIR THERNSTROM: Yeah, wait a minute.

COMMISSIONER HERIOT: I'm still upset about the portrait thing. I would not be willing to say something that the purpose of the census -- I'm willing to say the census is a portrait, but I'm not going to tout, going to vote in favor of something that says the purpose of it is.

VICE CHAIR THERNSTROM: Well, it's in the Constitution.

COMMISSIONER HERIOT: It's in the Constitution in order to determine how many --

VICE CHAIR THERNSTROM: Okay, but it had a secondary -- it has had a secondary --

COMMISSIONER HERIOT: It's not our job to make a statement like that. It's just -- it's a statement that's unnecessarily tendentious. Just say it is a portrait.

COMMISSIONER YAKI: Well, to the extent that, you know, your recommendations that say the Census Bureau shouldn't be in the business of gathering racial statistics whatsoever, not saying
that you would do that but someone -- one of our
people did do that, then yeah, we are saying that what
we think the Census Bureau should or should not be
doing in terms of how it gathers data, what it -- what
data it gathers and what it's used for. So --

COMMISSIONER KIRSANOW: It's lost by
adopting Commissioner Heriot's approach by saying
that's what it's used for, one of the things that it's
used for.

COMMISSIONER HERIOT: I just asked what it
is. It's a portrait. It's also some other things but
it's far to say it is a portrait. It's the same
purpose, then you have to ask whose purpose.

CHAIRMAN REYNOLDS: Is there something
with that approach that --

COMMISSIONER YAKI: No, I have no
objection to saying that the census as originally
conceived was a method of apportioning electors.

COMMISSIONER HERIOT: We don't need to say
that. We don't need to say that. We don't need to
say that.

COMMISSIONER YAKI: I think we need to say
something because what the census is now, what it has
become, how it has been used by -- used as a means of
policy by the government is something you just can't
deny.

VICE CHAIR THERNSTROM: Okay, but the census has provided -- okay, a simple declaratory sentence, "The census has provided a portrait of changing America --

COMMISSIONER HERIOT: Yeah, well, that's less strong than what I'm willing to vote for. I'm willing to say it is a portrait. But I don't like the word "purpose", because that then --

VICE CHAIR THERNSTROM: All right, that's okay.

COMMISSIONER HERIOT: -- whose purpose are we talking about, whose purpose counts here?

CHAIRMAN REYNOLDS: Commissioner Thernstrom offered up a revision that deletes --

VICE CHAIR THERNSTROM: Purpose, it deletes purpose.

COMMISSIONER HERIOT: I thought my version you'd like even better to say it is a portrait.

VICE CHAIR THERNSTROM: That's what I just said.

CHAIRMAN REYNOLDS: Okay, wait a minute.

VICE CHAIR THERNSTROM: I just added a couple of words, changing C- you know, the changing demography of America, but whatever.
CHAIRMAN REYNOLDS: Okay, so in the next round we will have --

COMMISSIONER YAKI: Amber waves of grain.

CHAIRMAN REYNOLDS: We will try to reduce this agreement to writing. Okay.

VICE CHAIR THERNSTROM: But wait a minute, before -- can we talk about what's here and then you add your two --

CHAIRMAN REYNOLDS: Okay.

VICE CHAIR THERNSTROM: -- additional findings? So I've got a problem with the -- the second bullet point here, "The 14th Amendment mandated the counting of the" --

COMMISSIONER HERIOT: Wait, have we gotten that far down yet?

CHAIRMAN REYNOLDS: Yeah.

COMMISSIONER HERIOT: Okay.

COMMISSIONER YAKI: We lost somebody.

COMMISSIONER HERIOT: Are you still here?

COMMISSIONER BRACERAS: Here.

CHAIRMAN REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: Here.

CHAIRMAN REYNOLDS: Oh, okay. It must have been Derek?

CHAIRMAN REYNOLDS: Derek?
COMMISSIONER HERIOT: Okay, so we're on
Number 3?

CHAIRMAN REYNOLDS: Yeah, "The treatment
of race in the census has evolved over its"

COMMISSIONER HERIOT: Okay. Number 1 is a
false statement. It is not true that the 1790 census
recognized three racial categories; White, Black and
Indian. It only recognized White. There was free
Whites. There were free non-Whites and there were
slaves. And there's nothing about the racial
composition of any category except for free Whites.
So I would just delete it. Who cares what the 1790
census did?

Or you could say the 1790 census
recognized the category of free Whites, the category
of non-free Whites and the category of slaves.

VICE CHAIR THERNSTROM: Well, since we do
have -- we do have some historical statements in
bullet points --

CHAIRMAN REYNOLDS: This is a matter of
evolution, so start from the beginning.

VICE CHAIR THERNSTROM: Yeah, just so we
have a correct version of the 1790.

COMMISSIONER HERIOT: Yeah.

COMMISSIONER YAKI: Do we believe in
进化了？

CHAIRMAN REYNOLDS: 那很好。好的，

Commissioner Heriot, 你的意见是什么？

COMMISSIONER HERIOT: 我的修正？

CHAIRMAN REYNOLDS: 是的。

COMMISSIONER HERIOT: 1790年，人口普查

将人口分为白人自由人、非白人自由人和奴隶。而且你可以添加，

我认为，如果你愿意，这个类别中的非白人自由人可能包括

自由黑人和自由印第安人缴纳了税款，但不包括

印第安人未缴纳的税。

COMMISSIONER KIRSANOW: 我认为

这不需要。

CHAIRMAN REYNOLDS: 有任何反对这个修正案的意见吗？好。

下一点是，“《第14条修正案》规定了人的统计，即

对人数的整数统计。这一变化导致人口普查成为

每人的准确统计”。

Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: 好的，首先

这个变化本身就不合理。它对人数的整数统计，不完全。

它排除了未缴纳税款的印第安人。第二，它

在第二，它

意味着人口普查成为每人的准确统计”。

Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: 好的，首先

与这个变化本身就不合理。它对人数的整数统计。它

排除了印第安人未缴纳的税。但在第二个地方，所
is this, "The 14th Amendment mandated the counting of the whole number of persons"? I mean, what the 14th Amendment says is all persons born and naturalized in the United States and subject to the jurisdiction thereof, of citizens of the United States and of the State wherein they reside". I just don't know where that comes from, that --

COMMISSIONER BRACERAS: Yeah, I have a problem with that as well. It doesn't seem to be precise.

COMMISSIONER KIRSANOW: Wasn't there a --

I'm trying to remember. There was a Supreme Court case that I think is an extrapolation of that.

COMMISSIONER YAKI: Yeah.

COMMISSIONER KIRSANOW: I think that's where the court -- I remember this from constitutional law 30 years ago but it will come to me.

VICE CHAIR THERNSTROM: It wasn't the 14th Amendment in any -- I didn't know that case, but it wasn't the 14th Amendment that made any difference. The three-fifths clause was null and void by the 13th Amendment and so it's the 13th Amendment that really made a difference.

COMMISSIONER KIRSANOW: Well, actually, it's the Supreme Court interpreting the 14th Amendment.
VICE CHAIR THERNSTROM: Okay, but it is the 13th Amendment abolishing the three-fifths clause in effect that changed the counting of Americans, not the 14th. I mean, the abolition of slavery and therefore, the three-fifths --

COMMISSIONER YAKI: Why don't we just send this section back to be rewritten?

COMMISSIONER KIRSANOW: Yeah, I think so, it needs to be because I'm -- I don't know that that's historically accurate and so we're going to have to be more precise about this.

VICE CHAIR THERNSTROM: Which part? I mean, is the -- once you get rid of the --

COMMISSIONER KIRSANOW: Whether it's the 14th Amendment or the 13th Amendment, I think the whole counting of persons is taken from -- and I wish I could remember the name of the case. It was an 1890's or something Supreme Court case.

VICE CHAIR THERNSTROM: Okay, look once you abolish slavery, then former slaves become whole persons.

COMMISSIONER HERIOT: No, the census always counted slaves as whole persons. It's the -- for tabulating how many congressional districts you get. So it's wasn't the --
VICE CHAIR THERNSTROM: Okay, okay, yeah, yeah, you're right, you're right, you're right.

COMMISSIONER HERIOT: So in that sense, this is false.

COMMISSIONER KIRSANOW: And that's what needs to go back to be written.

CHAIRMAN REYNOLDS: Okay, so is everyone comfortable with --

VICE CHAIR THERNSTROM: With that rewrite?

CHAIRMAN REYNOLDS: Yeah, permitting staff to go over this, rub it, revise it, circulate it? Hearing no objections. Okay, Number 4, "Prior to implementing any change in its census forms, the Census Bureau evaluates the proposed change and" --

COMMISSIONER HERIOT: We have another bullet point.

CHAIRMAN REYNOLDS: Oh, I thought we were sending this whole --

COMMISSIONER HERIOT: Yeah, but the problem is not on the -- they can fix it. I just have a minor quibble with the third one, that 1890 in terms of verb tense. "By 1890 several new race classifications" --

VICE CHAIR THERNSTROM: Had emerged.

COMMISSIONER HERIOT: -- "had emerged",
because in fact, they didn't occur in 1890. They occurred earlier than that.

VICE CHAIR THERNSTROM: Right.

COMMISSIONER HERIOT: Because of the Chinese.

CHAIRMAN REYNOLDS: Okay. Anything else with that bullet?

COMMISSIONER YAKI: You say the Chinese race emerged about what?

COMMISSIONER BRACERAS: (Inaudible)

COMMISSIONER YAKI: About 100,000 years.

VICE CHAIR THERNSTROM: And I don't know why century and 20th century is -- century is capitalized, it shouldn't be.

CHAIRMAN REYNOLDS: Jennifer, Commissioner Braceras, were you about to make a comment?

COMMISSIONER BRACERAS: I was just commenting on the tense used had emerged.

VICE CHAIR THERNSTROM: It's had emerged, by 1890 had emerged.

COMMISSIONER HERIOT: Because they added the Chinese.

COMMISSIONER BRACERAS: Yeah, by categories emerged?

COMMISSIONER HERIOT: Well, you might
quibble using the words entirely but the right verb
tense would be had emerged.

VICE CHAIR THERNSTROM: But Jennifer is
right, "classifications emerged".

COMMISSIONER YAKI: They were utilized or
they --

COMMISSIONER BRACERAS: Yeah.

COMMISSIONER HERIOT: Had been adopted,

had been adopted.

COMMISSIONER YAKI: Right.

COMMISSIONER BRACERAS: Yes, adopted. I
frequently have this problem with some of the writing
in our reports is that inanimate objects and
categories and things are constantly being described
as --

CHAIRMAN REYNOLDS: As doing stuff.

COMMISSIONER BRACERAS: As doing things,
and I just -- and are we going to be mindful of that?

COMMISSIONER HERIOT: Right, yeah, you're
probably right.

CHAIRMAN REYNOLDS: Okay, next bullet,

"Throughout the 20th century, racial" --

VICE CHAIR THERNSTROM: Have been created,
you could say, "The racial classifications have been
created" whatever. You're right.
CHAIRMAN REYNOLDS: "Throughout the 20th century racial classification continued to evolve to include Philippine --

COMMISSIONER YAKI: Classifications were adopted to --

VICE CHAIR THERNSTROM: New racial classifications were adopted to is much better.

COMMISSIONER YAKI: Yeah.

CHAIRMAN REYNOLDS: Okay. "In 1970 a separate question for Hispanic origin was added to the long form and thereafter became part of the short form census".

VICE CHAIR THERNSTROM: That's fine.

CHAIRMAN REYNOLDS: Okay. Four, "Prior to implementing any change in its census forms, the Census Bureau evaluates that proposed change by performing a comprehensive" --

VICE CHAIR THERNSTROM: Why do we need census forms, Census Bureau? "Any change in its forms the Census Bureau evaluates". We don't need census twice.

CHAIRMAN REYNOLDS: Okay. "The Census Bureau evaluates the proposed change by performing a comprehensive and time intensive series of surveys and tests runs. For this reason it is no longer feasible
for the Census Bureau to complete the necessary
evaluation and time to implement any changes involving
the classification of race and ethnicity for the 2010
census".

VICE CHAIR THERNSTROM: It seems to me it
would be better to say "involving the race and
ethnicity classifications", plural.

CHAIRMAN REYNOLDS: Other comments for
Number 4? Number 5, "The census began including a
question on Hispanic origin in 1970. The current
structure which recognizes only two ethnic groups,
Hispanic and non-Hispanic, derives from the 1997
revisions to the Office of Management and Budget
Statistical Policy Directive Number 15".

VICE CHAIR THERNSTROM: 15.

COMMISSIONER HERIOT: It's a little low on
that and there's no space between budget and OMB and
there needs to be.

CHAIRMAN REYNOLDS: "That directive has
been criticized as misleading on the grounds that it;
A, creates one amorphous non-Hispanic group that, in
fact, comprises of ethnicities and B, ignores the fact
that researchers and academics regularly place
Hispanics in a discrete racial category rather than
classify Hispanic as an ethnicity."
VICE CHAIR THERNSTROM: Go on, Jennifer, you were about to say something.

COMMISSIONER BRACERAS: Well, I agree that it has been criticized from both those perspectives. I'm not sure that gives a complete picture of the various critiques of that category and my other problem with that finding of fact is that it doesn't -- it has the -- it has the critiques about noting that there are people who think it's fine the way it is.

COMMISSIONER YAKI: Well, without noting the reasons why people think it's fine the way it is.

COMMISSIONER BRACERAS: Say it again.

COMMISSIONER YAKI: Without noting the reasons why people think it's fine the way it is, because this thoroughly says others have been supportive.

COMMISSIONER BRACERAS: Exactly.

COMMISSIONER YAKI: Yeah.

COMMISSIONER BRACERAS: It says they have been supportive, but yeah, what does that mean?

VICE CHAIR THERNSTROM: And would you say the hundreds of ethnicities, comprises hundreds of ethnicities is correct? I mean, I would prefer to have something, many ethnicities. I think hundreds we're -- we probably can't count hundreds.
COMMISSIONER HERIOT: Hundreds for non-Hispanics, isn't it? This isn't hundreds Hispanics, it's hundred non-Hispanics.

VICE CHAIR THERNSTROM: Oh, I see, I see. Yes, okay. Sorry about that.

COMMISSIONER BRACERAS: It's been criticized as misleading on two grounds.

VICE CHAIR THERNSTROM: Yeah, yeah, I'm misreading it as Hispanics comprise hundreds but yeah, okay, sorry.

COMMISSIONER BRACERAS: Well, in any event, I tried to articulate this before but I'm a little uncomfortable with the whole approach that this report takes towards Hispanics, both in the findings of fact and in the recommendations. I think it's extremely complicated. I don't think that the briefing focused specifically on that issue but to the extent we're going to talk about it, our discussion of it is, I would say, inadequate at best.

COMMISSIONER YAKI: I would agree with Jennifer. As I saw how much of this was starting to focus on that, I realized we had very little actual discussion about this at the briefing itself.

VICE CHAIR THERNSTROM: Well, Jennifer, it certainly is a huge issue for those who think about
the accuracy and the utility of the census, that you've got these two -- only two ethnic groups, Hispanic and non-Hispanic.

COMMISSIONER BRACERAS: That's fine and right, I agree with you, that is an issue. But I mean, I don't even know where to start with this, because I think it is so complex. I think it is so complex the way we categorize Hispanics in this country and I think, you know, to the extent that the census is, as you said before, what did you call it, paints a picture?

VICE CHAIR THERNSTROM: Portrait of America.

COMMISSIONER BRACERAS: A portrait of America, I think it's important to include Hispanics in that portrait in the original version of this report which I think -- well, the original version of this report recommended including Hispanic as a discrete category, Black, White and Hispanic. This version of the report has gone a completely opposite direction and recommended basically not categorizing Hispanics at all and asking some more of this open-ended question where some people would put, for example, Puerto Rican, other people would put Latino, others would put Hispanic, others would put Spanish
and all these people might mean the exact same thing.

In fact, they could all be members of the same family, so the two versions of the report that we've received have made completely opposite recommendations. And neither of those recommendations, in my view, are necessarily good ones and certainly they would need to be brushed out and explained and justified with much greater detail than they are here. And I just -- as the only Latino member of this Commission, I think I can say with some accuracy that neither of the formulations that have been presented would meet with great applause in the community.

CHAIRMAN REYNOLDS: And why is that, just so I can hear the specific objections, at least some of them.

COMMISSIONER BRACERAS: For which, where do you want me to start?

CHAIRMAN REYNOLDS: I guess let's just start with the first recommendation in the current draft.

COMMISSIONER BRACERAS: In the current draft or in the original draft?

CHAIRMAN REYNOLDS: The current draft.

COMMISSIONER BRACERAS: Well, the current
draft is the easy objection, but, I mean, the objection is that different people from the same family might self-describe themselves -- scratch that. Different people from the same family could use different words to describe themselves and mean the exact same thing and therefore, it would be less accurate and more confusing than what we have now, right? I mean, some stats, that this was obviously, swept out at the briefing a little bit. Some stats all racial and ethnic categories are artificial or socially constructed or whatever you want to call them.

However, I do believe you need to give people some choices because we do have a socially constructed society and if you don't give people some defined choices, the answers will be so far all over the map as to be useless in terms of quantifying data and looking at patterns and trends. It will become useless. So while I have no objection to allowing people put other and describe if they feel that the categories given to them are insufficient, or allow people to check more than one category to reflect the fact that, you know, many of us in this country are of mixed race and we don't want people to have to choose one race over another, I understand all those
concerns.

I think that having an open-ended question is a recipe for disaster and anyway, I'm sorry, this is completely an inarticulate rant, but I think you get my point, that you know, you could take my family and have five different answers; Spanish, Puerto Rican, Latino, Hispanic, Caribbean, and how would you know that those people were all from the same ethnic group?

VICE CHAIR THERNSTROM: Well, you wouldn't have a Latino category because that's again, the umbrella Hispanic. Look --

COMMISSIONER BRACERAS: No, no, no, no, that's wrong. If you allow people to write whatever they want, believe me they will come up with things you haven't even heard of.

VICE CHAIR THERNSTROM: All right, but --

COMMISSIONER BRACERAS: They will come up with Spanglish. They will invent words.

VICE CHAIR THERNSTROM: All right, but all of those categories can be aggregated if you want to know the total number of people who identify themselves in one way or another as Hispanic, you just do a little addition. I mean, the point --

COMMISSIONER BRACERAS: Then ask us to
check that box.

VICE CHAIR THERNSTROM: Well, but the point is to get away from these -- get away entirely from racial categories and go to ancestor categories instead of perpetuating --

COMMISSIONER BRACERAS: But that's a different (inaudible) and I'm not sure that we agree on that 100 percent, but if we're going to go strictly to ethnic categories --

VICE CHAIR THERNSTROM: No, ancestor categories.

COMMISSIONER BRACERAS: Fine, if we're going to go to ancestor categories, there still needs to be categories. In other words, what is your ancestry open-ended with no choices is not accessible because of the wildly diversion answers you're going to get from people who mean the exact same thing.

VICE CHAIR THERNSTROM: And instead we stuff people into boxes that are very questionable.

COMMISSIONER BRACERAS: Yes.

CHAIRMAN REYNOLDS: Okay, okay.

COMMISSIONER BRACERAS: No, this is about the --

COMMISSIONER YAKI: You're about to get some --
COMMISSIONER BRACERAS: No, but just let me finish. I've talked about this before. All categories are artificial. Some people will argue that gender is a background and not a category. Should we start putting on the census, what's your gender and let people choose their points on the spectrum. No, we ask people to fit themselves into a category. Now --

VICE CHAIR THERNSTROM: It is meaningful to know that somebody is Puerto Rican and not Cuban.

COMMISSIONER BRACERAS: That's fine.

VICE CHAIR THERNSTROM: It is meaningful to know somebody is Jamaican and not West African.

COMMISSIONER BRACERAS: Yes, I think where we disagree is that I agree with you that a greater level of specificity is good. I agree with that. Where I disagree with you is allowing it to be open-ended and not having consistency in the way -- in the kinds of usage. We need to give people choices but we also need to give them an opportunity to say, "I don't fit any of the choices you've given me, here's what I call myself", that's fine. But we can't just say, "What are you", and leave it open.

CHAIRMAN REYNOLDS: Okay, Commissioner Yaki?
COMMISSIONER YAKI: I mean, I agree with Commissioner Braceras 100 percent and I think I'm -- as the only Asian American member of the Commission, for the Asian American community, the desire to have more boxes on the census has been actually a struggle for the past 30 years. It's not that we want to be forced into a box, it's the fact that no one recognizes that there actually -- for years that Asian is not this monolithic category with specific and very unique cultural and racial backgrounds and cultures.

I would say that like Jennifer, if you would ask any of my family that my sister's family who lives in Hawaii, she is, as I am, one-half Chinese, 3/8 Japanese and possibly 1/8 Hawaiian. She married someone who is full blood Chinese, but then if you ask her kids what they identify themselves as in some open-ended question, you're going to get three different answers from her kids and I know that because I kind of asked them one time what they were. They're Hawaiians.

VICE CHAIR THERNSTROM: That's an incorrect response though.

COMMISSIONER YAKI: Well, I'll tell you why it would become an incorrect response, when you look, for example, at -- and this is why ultimately it
can't -- for the Asian community, the reason may be different from the Hispanic community. For the Asian community when you look at the distinct differences in education, in income, poverty levels, views in the country, et cetera, there are vast differences between the different nationalities of Asian immigrants who have come to this country.

When you then get into even more discrete categories, say Native Hawaiians where programs, the Hawaiian Homelands Commission, other programs run by the Federal Government, the potential for what we call and have called for years the undercount in answers of categories, has enormous impact on how programs are to be treated and administered for these different races. And I think that it just -- I hold with Jennifer which is if at some point someone wants to put other and I remember for the 1970 census, I put other, because they did not have -- I said, I am Chinese, I'm Japanese, I'm Hawaiian. I am not one category.

I probably screwed up my statistics, but now I realize that I probably shouldn't have done that but instead we advocated through '80 and through '90 for putting more boxes and being able to do multiple checks in the different boxes so people could understand where people come from.
COMMISSIONER BRACERAS: I think where we all agree, it seems to me where Commissioner Thernstrom and Yaki and I all agree is it's our desire to be more precise and more specific and more accurate but that doesn't mean disregarding culturally accepted categories. Right? Because the fact of the matter is, you know, you can say that being Asian is a false construct or that Hispanic is a false construct but there are certain cultural similarities amongst Hispanic groups as there are cultural differences, and it's important to understand both the similarities and the differences and not to look fully at one or the other.

So to lump everybody together as Hispanic is incomplete but to ignore the fact that people from the Dominican Republic and Cuba and Puerto Rico and Mexico might have shared political interests or shared cultural patterns or other things like that, would also be to lose sight of half the picture.

COMMISSIONER YAKI: And Jennifer, just for you to know, that the Census Bureau when it started testing the more -- the less boxing questions versus the control question, finds that the deviation between the control group, more boxes and the new group, less boxes, more open-ended, that the accuracy of the count
dropped significantly to the point where there was a
10-point deviation in the uncontrolled group and then
20 points in another. It's --

COMMISSIONER BRACERAS: Of course there
were and you want to know what, you want to know how
many people just put American, gazillions, and maybe
that's something to watch because frankly, the concern
really among some conservatives, myself partially
included, it's not this portion of America, the
concern is what's done with the data, what's done with
the boxes. You know, whether certain groups are given
privileges in society that other groups are not given
on the basis of these social constructs. That's the
real concern, and one that I, you know, in some
measures share.

But let's address the real concern because
I want to have an accurate demographic picture of this
country. I want to have a rich and fully fleshed out
demographic picture of this country and you know, what
politicians do with that information is not really my
problem right now in terms of this report. That's a
topic for another day.

VICE CHAIR THERNSTROM: But Jennifer,
that's one real concern, but the second real concern
that I would articulate is that public policy,
including census categorizations, deliver messages. These umbrella categories tell people how to think of themselves. They tell American citizens how to think of the demographic fabric of America and in my view, they perpetuate unfortunate stay to the goal categories.

COMMISSIONER BRACERAS: I don't think so at all, because do you know what, if people do not view themselves in ethnic terms, they're not going to check those boxes.

VICE CHAIR THERNSTROM: They are encouraged to think of themselves within boxes. Those boxes --

COMMISSIONER BRACERAS: Well, do you know, I guess that's where I part company with most conservatives because what I say to that is, so what? What's wrong with that? What's wrong with -- you know, what's wrong with my kids thinking of themselves as ethnically Hispanic?

VICE CHAIR THERNSTROM: But that is not --

COMMISSIONER BRACERAS: What's wrong with my neighbor's kids thinking of themselves at ethnically Irish and rushing off to their Irish step dancing classes?

VICE CHAIR THERNSTROM: If that is the
first identity they choose for themselves, that's fine, but many people I would hope, would have a more complex view of themselves and that wouldn't be the top of that list.

COMMISSIONER BRACERAS: They have a complex view of themselves which is why they should be able to check multiple boxes, which is why somebody should be able to check Black and Native American and Mexican if that's what they are?

VICE CHAIR THERNSTROM: So much --

COMMISSIONER BRACERAS: You should be able to -- I agree with you that people shouldn't be forced into boxes in the sense that they shouldn't be forced to choose one portion of their identity over another and so if they are mixed race, they should be able to check all aspects of their identity. But that doesn't mean no aspects of their identity.

VICE CHAIR THERNSTROM: No, but we're perpetuating -- to me these boxes are most unfortunate. We're perpetuating -- this is a much longer conversation than I can have and other people have their hands raised.

COMMISSIONER BRACERAS: Okay, I'm sorry.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: It's precisely because
we're having this long conversation about a report that's 16 months old and data that's stale that I'm going to say this with all seriousness, which is, is this a report at this point in time worth the Commission's time and effort to salvage or we have other reports in the hopper that we need to go through, we have other priorities that need to get done and why should we be wasting our new fiscal year on trying to fix what looks like a pretty bad tire on the car. Maybe we should just buy a new tire and get a move on.

COMMISSIONER BRACERAS: The bottom line is I'll be gone in two months and you won't have to worry about my vote. But to the extent that this is going to be decided before I leave, I will tell you now that I will never vote to support a report that -- hello?

COMMISSIONER YAKI: Yeah, we're listening with baited breath, Jennifer.

COMMISSIONER BRACERAS: Sorry, I heard a click.

(Laughter)

COMMISSIONER YAKI: No, that was Jerry tapping on the gavel.

COMMISSIONER BRACERAS: I will never vote to support a report that either moves Hispanic into
the racial category and doesn't take account of the fact that Hispanics come in all races and for the most part Hispanics are a mixed race.

VICE CHAIR THERNSTROM: They can check more than one box or not a race at all.

COMMISSIONER BRACERAS: Let me -- the first document I got on this report made a recommendation that Hispanic be moved to an equal category with Black and Whites.

VICE CHAIR THERNSTROM: But they're free to check more than one box.

COMMISSIONER BRACERAS: I will never support a report that says that. On the other hand, I will also never support a report that seeks to eliminate racial categories. We had this discussion when we talked -- years ago, when we had a briefing on racial privacy and I will not support that. I am with the conservatives in their effort to make sure that racial categories aren't misused but I am not with the conservatives in their effort to say that race is irrelevant or to eliminate sociological or demographic studies or celebrations of race and ethnicity, and I will never support that either. So --

VICE CHAIR THERNSTROM: Ancestor category is -- I mean, I don't know why --
COMMISSIONER HERIOT: If somebody asked me my ancestry, I'd say I'm Velma Vanna's (phonetic) granddaughter. I wouldn't even know what you're asking.

VICE CHAIR THERNSTROM: Well, there would be examples given on the census form.

COMMISSIONER YAKI: If anybody asked me my ancestry, I'd know exactly what they're asking and that's the difference. So --

CHAIRMAN REYNOLDS: Okay, but you put the question on the table that I think --

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: -- deserves our attention. I do believe that there is merit. I'm not sure which way I would vote.

VICE CHAIR THERNSTROM: Wait a minute, we're going to explore a report?

CHAIRMAN REYNOLDS: I think there's merit to -- no, not to my knowledge.

VICE CHAIR THERNSTROM: The whole reason we had and there's no record of it?

COMMISSIONER BRACERAS: There doesn't seem to be a consensus from this Commission on a recommendation.

COMMISSIONER HERIOT: Well, I'm not --
because I'm basically on your side.

COMMISSIONER KIRSANOW: I don't know that we require a consensus. We've got the ability to vote on certain recommendations and have one line dissents or explanations for why someone disagrees.

VICE CHAIR THERNSTROM: Or we have findings and recommendations.

COMMISSIONER HERIOT: How about a recommendation it's very innocuous and have everybody say, "Here's what I would do"?

VICE CHAIR THERNSTROM: Or something, I mean --

COMMISSIONER YAKI: We're beating an effective dead horse.

CHAIRMAN REYNOLDS: This horse is not dead, that's the problem. This horse is going in all sorts of directions.

COMMISSIONER HERIOT: Have recommendations that are fairly stark, you know, nothing big, on how people submit their own statements.

VICE CHAIR THERNSTROM: Or eliminate the findings and recommendations. We can't eliminate the entire --

COMMISSIONER YAKI: No, actually I wasn't -- well, the -- I mean, to me if you wanted to put out
-- get the summaries checked by the guys, put out the statements and do the original low level briefing report. Here are the issues, these are the things that are out there. People are talking about it, this is what we looked at, very good, goodbye, because I think if we go to the next step we're going to be wasting a lot of time.

CHAIRMAN REYNOLDS: The steps you're referring to are the recommendations?

COMMISSIONER MELENDEZ: Mr. Chairman, this is Commissioner Melendez. I support a no recommendation. I have to get to another appointment, so I'm going to sign off. So I'll see you the next time.

VICE CHAIR THERNSTROM: All right, we'll we're not going to conclude this today anyway, so don't worry about it. In fact, we may be discussing this in --

COMMISSIONER YAKI: During the National Conference.

(All speaking and laughing at once.)

STAFF DIRECTOR MARCUS: I have to say I'm not clear at this point, between now and the next meeting whether the directive is to make the various changes --
VICE CHAIR THERNSTROM: Don't feel bad, no one is at this point.

COMMISSIONER HERIOT: I think all of it needs to be --

STAFF DIRECTOR MARCUS: Why don't you hold off because we may not be doing a report at all.

VICE CHAIR THERNSTROM: No, we've got to do some sort of report.

(All speaking at one time.)

COMMISSIONER KIRSANOW: I would do a report and I would do findings and recommendations, too.

COMMISSIONER HERIOT: We can get a majority behind something. I mean, the thing is I think what's more important is for each person to sort of put their little vision of this is what it ought to be and try to be persuasive.

VICE CHAIR THERNSTROM: Whatever, do something but we shouldn't trash all these people's testimony.

COMMISSIONER YAKI: No, I didn't say you should do that.

CHAIRMAN REYNOLDS: I thought that's what you were --

COMMISSIONER YAKI: No, no, I'm just
saying essentially go to the original briefing report which was summary of the testimony and the discussion, the statements of the panelists and our charts and --

COMMISSIONER HERIOT: I bet we can get a majority behind some fairly small things, like, you know, something that expands non-White ethnicity.

COMMISSIONER YAKI: But the 14th Amendment really does make -- (Laughter)

CHAIRMAN REYNOLDS: Okay, so we're going to rework the recommendations. We are going to lower our expectations apparently.

VICE CHAIR THERNSTROM: Why can't we do what Gail suggested, everybody submit what they would like to see in these findings and recommendations?

CHAIRMAN REYNOLDS: But I heard two things. On the one hand, everyone submit their recommendations and we vote, and the other is that we get some non-controversial issues that's something that we can reach a consensus on.

COMMISSIONER HERIOT: I think step one, we all kind of try to create bullet point recommendations that we think we might be able to get a majority behind. And so let's look at our e-mails to each other and --

VICE CHAIR THERNSTROM: Why can't we
resubmit what we want said?

COMMISSIONER HERIOT: That's fine. But, you know, ultimately, I think we are not all going to agree and it's going to -- that the real work is going to be carried by individual commissioner statements.

COMMISSIONER BRACERAS: Yeah, that's fine. I mean, just so you know where I'm coming from, I think the problem with the current categorization is that other ethnic groups do not have the opportunity on that form of the census to write down the -- so you're either all non-Hispanic or you're Hispanic. That's my problem with it.

My problem is not at all with how the Hispanic category is treated in terms of having an opportunity to check it and check a race if you'd like to do so. That's fine with me. So I don't want to change how they treat Hispanic, other than maybe be more specific and allow people to identify their ancestry within Hispanic and to allow more ancestral groups to be counted, but I do not want to change the rules where they put those categories. I'm very firm on that.

COMMISSIONER YAKI: Okay, Mr. Chairman, take it away.

CHAIRMAN REYNOLDS: Okay, people just
submit your recommendations and we will take -- we will fight over these issues, discuss these issues at a later date.

Commissioner Kirsanow this morning pointed out -- well, we -- this debate has been underway for a long time. Here are debates like this that take place within census. There is a debate that took place when I was at the Department of Education. The concept of race and ethnicity is -- it's fluid and by God, there are differences of opinion on what constitute a race and so --

COMMISSIONER KIRSANOW: I'm offended, there's not a category for Klingon Americans.

VICE CHAIR THERNSTROM: For what?

COMMISSIONER KIRSANOW: Klingon Americans.

COMMISSIONER YAKI: Kleons.

VICE CHAIR THERNSTROM: Let's get out of here.

CHAIRMAN REYNOLDS: We've got more to do though. Where are we at?

COMMISSIONER YAKI: We did everything else.

CHAIRMAN REYNOLDS: Did we do everything else?

COMMISSIONER YAKI: We did everything
else.

CHAIRMAN REYNOLDS: Except involvement of Commissioners in -- yeah, we tabled that. Okay, folks, it's been fun.

VICE CHAIR THERNSTROM: Did we do agenda items?

CHAIRMAN REYNOLDS: I'm afraid to open up that door.

COMMISSIONER YAKI: One quick question.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER YAKI: Any further -- well, never mind. I'll say it off line. Let's go.

CHAIRMAN REYNOLDS: All right, folks, I'll see you next month.

(Whereupon, at 12:39 p.m. the above-entitled matter concluded.)