
PRESENT:

MARTIN R. CASTRO, Chairman
ABIGAIL THERNSTROM, Vice Chairman
ROBERTA ACHTENBERG, Commissioner
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
DAVID KLADNEY, Commissioner
MICHAEL YAKI, Commissioner

VANESSA EISEMANN, Parliamentarian
LOUISE DiBENDETTO, Office of the Inspector General
STAFF PRESENT:
MARGARET BUTLER, Acting Director, OCRE
PAMELA DUNSTON, Chief, ASCD
YASMIN ELHADY
ALFREDA GREENE
JENNIFER CRON HEPLER
DAVID MUSSATT, Acting Director, RPCU
LENORE OSTROWSKY, Acting Chief, PAU
ELOISE PLATER
EILEEN RUDERT
MICHELE YORKMAN
JOHN RATCLIFFE, Chief, BFD

COMMISSIONER ASSISTANTS PRESENT:
NICHOLAS COLTEN
ALEC DEULL
TIM FAY
JOHN MARTIN
CARISSA MULDER
MARLENE SALLO
ALISON SOMIN
A G E N D A

Page

I. Approval of Agenda............................4
Commissioner’s Remarks.........................7
Discussion of request to conduct a hearing
regarding Florida HB 1355......................9

II. Program Planning................................25
Update on the 2013 Statutory Enforcement report
- Sexual Assault in the Military................25
Update on the Civil Rights Implications of
Eminent Domain Abuse briefing...............28
Update on the Sex Trafficking: A Gender-Based
Violation of Civil Rights briefing............28

III. Management and Operations.................28
Chief of Regional Programs report.............28

IV. State Advisory Committee Issues.............31
Review of proposed charter for SACs..........31
OGC Training.....................................39

V. Adjourn Meeting...............................53
CHAIRMAN CASTO: The meeting will come to order. This is a meeting of the U.S. Commission on Civil Rights. It is December 7th, 2012 at approximately 2:26 in the afternoon.

This meeting's taking place here at the Commission's headquarters located at 1331 Pennsylvania Avenue, Northwest, Washington, D.C.

I'm Chairman Marty Castro.

Commissioners who are present at this meeting are myself, Commissioner Kirsanow, Commissioner Heriot, Commissioner Gaziano, Commissioner Achtenberg, Commissioner Kladney, Vice Chair Thernstrom, and I am under the impression that Commissioner Yaki will be joining us telephonically shortly.

A quorum of the Commission is present.

Is the court reporter present? That's a yes, he's nodding his head, for the record. And the meeting shall now come to order. The first item on the agenda is the approval of the agenda.

I. APPROVAL OF THE AGENDA

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

COMMISSIONER GAZIANO: Second.

CHAIRMAN CASTO: Okay. Does anyone have any amendments? And to that, I would say I would move that we amend the agenda to add a discussion of a request we received to conduct a hearing regarding Florida's HB 1355.

So I propose that we add this to the agenda. I know that the Vice Chair would like to address this earlier in the agenda. I don't have a problem with that, provided that I have Commissioner Yaki available on the phone. I understand he's coming on.

Ms. Hepler's here, so we can continue with that. I also move that we move the review of proposed SAC charter under state advisory committee issues to the report of the regional program's officer. Any discussion?

COMMISSIONER GAZIANO: Just to clarify, we're going to take up the additional item you're placing on the agenda as soon as we can get to it after Commissioner Yaki joins?

CHAIRMAN CASTO: Yes. And we have notified to please come on the line.

COMMISSIONER GAZIANO: Do we have pretty
good authority that he will be on shortly?

CHAIRMAN CASTO: As good as we can get.

COMMISSIONER ACHTENBERG: Forthwith.

COMMISSIONER GAZIANO: All right.

COMMISSIONER ACHTENBERG: Can't do better than that.

CHAIRMAN CASTO: Any additional discussion?

COMMISSIONER GAZIANO: Just with the understanding that if he's not on shortly, we wouldn't take up that measure, that additional measure to prejudice one side or the other for waiting for Commissioner Yaki.

CHAIRMAN CASTO: I'm not sure what you mean by that.

COMMISSIONER GAZIANO: If another Commissioner has to leave, but Commissioner Yaki hasn't come on the phone by then, we wouldn't take up the matter.

CHAIRMAN CASTO: Yes, I'm not trying to prejudice anybody. Treat everybody fairly.

COMMISSIONER GAZIANO: I understand. I'm trying to clarify.

CHAIRMAN CASTO: That's correct.

COMMISSIONER GAZIANO: Okay.
CHAIRMAN CASTO: We wouldn't want things to be more opaque. Okay, with that understanding, I'm going to call the question. All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN CASTO: Any opposed? Any abstentions? Okay. So before we actually move on to the items on the agenda, I actually wanted to do this at the last meeting, but we didn't have the opportunity to do that.

COMMISSIONER'S REMARKS

CHAIRMAN CASTO: I wanted to take a moment to say a few words about Connie Davis. Connie was, as many of you know, responsible for opening, or re-opening our Midwest regional office, and she served as our regional director there, starting in 1991.

By the time that she retired in 2007, she had led that office and its six SACs in the production of nearly 40 reports that covered topics such as affirmative action, police protection, Arab and Muslim civil rights concerns after September 11, and news media coverage of communities of color.

Prior to coming to the Commission in 1991, Connie worked as the chief equal employment
opportunity officer for the U.S. Department of Labor in Washington, D.C.

I know for a fact that she was very well respected by her staff and worked in that office to create a strong culture because I had the opportunity to work with her when I was initially appointed to the Illinois SAC.

And it is a great loss for our organization. And I just want to acknowledge the service that she gave to the people of the United States and to the Commission. So we will miss her.

Next, we'll go to program planning. Is Commissioner Yaki on the phone?

(Off microphone comments.)

II. PROGRAM PLANNING

CHAIRMAN CASTO: Okay, I want to make sure. We'll now proceed then to an update on the 2013 Statutory Enforcement Report topic, Sexual Assault in the Military.” Ms. Eisemann?

COMMISSIONER YAKI: I’m here. Hello?

VICE CHAIRMAN THERNSTROM: You’re here?

Okay.

(Off microphone comments.)

CHAIRMAN CASTO: Okay. Yes, actually we're going to hold off, Ms. Eisemann, since we have
Commissioner Yaki on the phone. We want to address
the issue of a request that was received initially,
Number 27, from a number of Members of Congress in
Florida requesting that we, as a Commission, conduct
a hearing on the Florida’s legislature HB 1355.

DISCUSSION OF REQUEST TO CONDUCT
HEARING REGARDING FLORIDA HB 1355

CHAIRMAN CASTO: A law which they
indicate in their letter to us, they believe limited
access to the polls for minorities, seniors and
college students, and reduced the number of early
voting days and imposed new restrictive regulations
on voter registration groups.

We were all copied on this, and I
circulated it, as well, to the Commissioners. And I
wanted to, for purposes of discussion, make a motion
that we conduct a hearing in Florida on HB 1355 as
it relates to the request that I just read. Do I
have a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTO: Okay, now I would like
to open it up for discussion. Commissioner Gaziano?

COMMISSIONER GAZIANO: I have a few
questions. Before I ask the questions, I hope that
all of you have received three letters from other
Members of Congress in the last, maybe ten hours.

But I’ll, but John made copies of them.

There’s a letter from ranking judiciary committee, U.S. Senate Ranking Judiciary Committee Member Grassley, pertinent to this matter.

There is a letter from House Judiciary Committee, Subcommittee on the Constitution, Trent Franks. Chairman also of both the Voting Section of Civil rights Division, as well as I believe, our Commission, and a letter from, and he discusses conversations he’s had with the House chairman and with both the current and incoming chairman.

And another letter from Representative Steve King, also on the House Judiciary Committee.

Before I mention those letters, let me just give you my impression of the request. The request revolves a news story.

CHAIRMAN CASTO: You said they requested the original --

COMMISSIONER GAZIANO: Yes, the original request. A news story that raises some, renews some claims that were the subject of Section 5 litigation, or a Section 5 administrative proceeding, and a voting rights act, Section 2, a law suit.
It just renews those claims and in my mind, doesn't seem to raise much new evidence the credibility, one unnamed source. I certainly don't know what to make of the unnamed source in a newspaper story.

The other two is a former Republican, who I understand has switched parties, but a very prominent one who seems to make a partisan allegation; and another official under incitement, as I understand it.

And what I would suggest is an appropriate way for the DOJ to proceed. The DOJ had a lot of resources at its disposal to consider the underlying claim. It could have brought its own Section 2 case as well, and it still can.

It has other criminal enforcement methods. And I certainly think that the Federal Court that considered this claim had, you know, the parties had discovery, much more extensive than our Commission's small resources to investigate this.

But that if they think there's any there, the Department should reopen its consideration of this. Here's where I think, I'm not sure that we should get involved at this stage at all because don't find the evidence worthy of
reopening what seems like somewhat of a partisan witch hunt.

But our comparative advantage is to review what state and federal officials have done in this regard, particularly DOJ. And that's what brings me to these letters.

There are a lot of calls that the DOJ made in the last election cycle that one side or the other thinks is questionable. I'll join some of the Members of Congress that have written to us today who were informed that we were going to be taking up this issue in suggesting that it was highly questionable of DOJ to interpose an objection to South Carolina's voter ID, which by the way, objection was found to be meritless, but succeeded in holding up a valid, sovereign state law.

There were other questions of where it seems like vote dilution may have occurred in Florida. So if we were to examine anything in Florida, it seems to me a more compelling issue was why the Department of Justice and Department of State tried to intervene to prevent Florida from removing ineligible voters that were diluting the vote in Florida.

So I'm not sure that, at this point, the
Commission should jump in at all. But I think the points are very well taken by Ranking Member Grassley, Chairman Franks and Representative King that if we were to conduct an investigation at all, that our role should be to investigate the Department of Justice.

And we should definitely look into these other claims that I think are much stronger, that the Department of Justice abused its authority possibly, or at least misused its authority, and in ways that no one else has previously examined, and it's likely no one else could examine in the way that the Commission could.

CHAIRMAN CASTO: Anyone else want to comment? Well, as far as the letter that we received originally, and just for the record, I only got Chairman Grassley's letter right before the start of our third panel, and Representative King's was handed to me during the panel.

And I just got an email from Representative Frank's office with that. So I didn't get them ten hours ago, but, you know, I've had a chance to glance at them. Just they may have arrived at different times to different people.

But I'm just seeing them within the
last, you know, hour to ten minutes. I think what we've been asked to look at is something that's very specific and very discreet as it relates to our mandate, both on voting rights as well as access to polls for minorities, seniors and college students.

And presumably, some of those folks fall on more than one side of the political aisle. And you know, we do have limited resources, that's correct, as we often talk about in making determinations on which matters we're going to conduct briefings on.

We always, and I know you've counseled me on this many times, Commissioner Gaziano. Let's keep it focused, let's keep it limited, let's keep it streamlined.

And I think many of these other issues that are set forth in the letters we just received go well beyond what is, I think, a very discreet issue that we can look at.

We do have funds to do something like this, just given the fact that in the last two months of this fiscal year, since we have not filled a couple of key roles, we do have funding that could take us down to Florida.

But I don't believe we're going to be
able to go to South Carolina and Texas and other places. So I think, at least initially, we should move forward and look at this issue in Florida, and then wait and see where our resources may take us or may not.

COMMISSIONER GAZIANO: Just to clarify, and then I'll yield. I would not suggest our investigation of DOJ need to take us to any state. I suggest our investigation of DOJ should focus and the State Department should focus here in Washington, D.C.

So my investigation would, I think we ought to, and I'm not saying we necessarily should do it. I'm just saying I'm not going to support one without the other. That's my position.

But our resources could be used more effectively, efficiently, and we could do something that only this Commission can do, and that I think is our unique comparative advantage, whereas plenty of people can reinvestigate the allegation that was originally brought to us ten more times with unnamed sources.

CHAIRMAN CASTO: Well, this directly relates to a denial of the right to vote, and I think it's specifically in our wheelhouse.
Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Mr. Chairman, I only received these three additional letters barely a few minutes ago. And they seem to be carbon copies of one another. Maybe they need more resources in the Congress to do non-division of work. I'm not exactly sure.

But I want to concur in your observation, Mr. Chairman, that I think what we were asked to do via the original letter is particularly not only within the jurisdiction of this Commission, but within its very important tradition. And so I would add my support as well for the vote on your motion to undertake the investigation that was requested via the letter of November 27th.

COMMISSIONER YAKI: Mr. Chair?

CHAIRMAN CASTO: Yes, Commissioner Yaki, please proceed.

COMMISSIONER YAKI: Can you hold on one second because I'm coming up the elevators now.

CHAIRMAN CASTO: Okay.

COMMISSIONER YAKI: Okay, thanks.

CHAIRMAN CASTO: Sure.

COMMISSIONER KLANDNEY: Can we go into recess for a few minutes, please?
COMMISSIONER GAZIANO: Just correct the record, I said Department of State. I should have said Department of Homeland Security. That was the other department with Justice trying to deny Florida the records that would have helped it clear up its roles.

CHAIRMAN CASTO: Thanks for that clarification. Commissioner Kladney, do you have anything?

COMMISSIONER KLADNEY: I just want to go into recess though until Mr. Yaki arrives.

VICE CHAIRMAN THERNSTROM: No, let's just wait.

(Off microphone comments.)

CHAIRMAN CASTO: Yes, we'll wait for him to come up.

VICE CHAIRMAN THERNSTROM: I think recess, that requires getting us all back in the room.

CHAIRMAN CASTO: Yes. So we will await his entrance.

(Whereupon, the foregoing matter went off the record at 2:43 p.m. and went back on the record at 2:46 p.m.)

CHAIRMAN CASTO: We were waiting for you
to chime in.

COMMISSIONER ACHTENBERG: We were waiting for you, Michael.

VICE CHAIRMAN THERNSTROM: We were waiting for you.

CHAIRMAN CASTO: We literally stopped.

COMMISSIONER YAKI: Are we still on the main motion?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTO: Well, the motion has been made and seconded for discussion. So everyone is giving their opinion, and we're waiting for yours.

COMMISSIONER YAKI: Thank you very much, Mr. Chair and I thank you for your patience and the patience of my colleagues. I support the Chairman's motion and it's for a very specific reason.

That is, the issues that were brought up in the letters from the House members and from the Senate deal with an issue that this Commission has dealt with before.

We have had hearings on voter identification. We've gone over these statutes; we have talked about issues of constitutionality and its impact and issues of voter fraud.
This is a very discreet, different issue that deals with an issue that was only lightly addressed in those previous briefings, and that is voter suppression and whether or not there was animus in this particular set of statues in Florida designed to curtail the ability of minorities and seniors to be able to register and to cast their ballots.

So to the extent that this Commission has, on more than one occasion, dealt with the other issues addressed by the House members but has not, has not addressed the issues raised in the letter and which is the subject of the main motion. I support what you are trying to do.

CHAIRMAN CASTO: Commissioner Heriot?

COMMISSIONER HERIOT: I wouldn't have chosen to study either, what any of the Congressional letters are suggesting here. It wouldn't have been first on my list.

I do, however, think that when a number of Members of Congress ask us to look at something, ordinarily, we should go out of our way to try to accommodate that when we can. And I am quite willing to look at what all of these Members of Congress are asking us to do here, if we can do it
as a package.

And so I would move to amend the main motion to include studying the issues that various Members of Congress here, I sort of lost track of who they are, Congressman Franks, Senator Grassley and Congressman King, I would move to amend your motion to include studying the issues that they --

CHAIRMAN CASTO: I don't think I view that as a friendly amendment to my --

COMMISSIONER GAZIANO: I'll second it for purposes of discussion.

CHAIRMAN CASTO: Discuss. Commissioner Heriot?

COMMISSIONER HERIOT: I can vote for this, and I can vote for the whole package. But I won't be able to vote for just studying what the Members of the House on the Democratic side have asked us to look at.

Todd pointed out, this has already been investigated in many different ways. And so I would be able to support the package.

COMMISSIONER KLADNEY: I think we ought to caucus before we vote. I just got these letters, I haven't read them.

CHAIRMAN CASTO: I understand. Any
other comments? But we won't vote until we -- from everyone here. And then we're going to go into caucus. Anyone else have anything to say right now?

If not, then I will take Commissioner Kladney's suggestion and take a ten minute break. I'm sorry?

COMMISSIONER GAZIANO: Just one more quick comment. Just relative to Commissioner Yaki's last statement. Of particular relevance I think is Florida's problems in getting the federal government to follow the law.

I missed when I said Department of State, Department of Homeland Security and Justice together. And I think that is of particular salience. But I would only, I'm not even sure I would want a little more discussion whether we're going to take up all these issues. But I would, I could just well if I consider them at all.

CHAIRMAN CASTO: Take a ten minute break.

COMMISSIONER ACHTENBERG: I don't think it needs to be as long as ten minutes.

CHAIRMAN CASTO: I don't know, but I don't think it should be as long as 15, so ten minutes or less. I'm sorry.

(Whereupon, the foregoing matter went
off the record at 2:51 p.m. and went back on the record at 3:03 p.m.)

CHAIRMAN CASTO: We're back on the record after our caucuses. I don't believe we have an agreement. So what I would suggest is we vote on our respective motions.

You have a motion pending before us to amend my motion. So why don't we call that question? This is on the motion to amend the motion. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTO: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Pass.

CHAIRMAN CASTO: Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: Pass.

CHAIRMAN CASTO: Okay. Commissioner Kladney, how do you vote on the motion to amend? No? Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: No.

CHAIRMAN CASTO: Commissioner Yaki, how
do you vote?

COMMISSIONER YAKI: I'll pass.

CHAIRMAN CASTO: And I vote no. So we go back to Commissioner Gaziano?

COMMISSIONER GAZIANO: What is the --

CHAIRMAN CASTO: The motion to amend my motion.

COMMISSIONER GAZIANO: I will vote yes.

CHAIRMAN CASTO: Madam Vice Chair?

VICE CHAIR THERNSTROM: I vote yes.

CHAIRMAN CASTO: And Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRMAN CASTO: So it's four versus four. Your motion to amend fails. I will now move for vote on my original motion. Commissioner Kirsanow, how do you vote on that?

COMMISSIONER KIRSANOW: Could you repeat that motion?

CHAIRMAN CASTO: Sure. That we conduct a hearing in Florida on HB 1355 pursuant to the November 27th, 2012, letter that we received from Members of Congress.

COMMISSIONER KIRSANOW: Again, I would prefer the previous one, so no.

CHAIRMAN CASTO: Commissioner Heriot,
how do you vote?

COMMISSIONER HERIOT: I would have been happy to vote for the compromise, but I have to vote no on this one.

CHAIRMAN CASTO: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: No.

CHAIRMAN CASTO: Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: No.

CHAIRMAN CASTO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADEY: Yes.

CHAIRMAN CASTO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Yes.

CHAIRMAN CASTO: And I vote yes. It's four to four. So both motions fail. Okay. Thank you. We will now go back to the programming that was regularly scheduled.

Miss Eisemann, if you could come back please, talk about the Enforcement Report for 2013?
II. PROGRAM PLANNING

UPDATE ON THE 2013 STATUTORY ENFORCEMENT
REPORT-SEXUAL ASSAULT IN THE MILITARY

MS. EISEMANN: Good afternoon. So I'm going to give you an update on the statutory report. For anyone who might have forgotten, the topic is “Sexual Assault in the Military.”

We propound to document request and interrogatories on November 16th. The Department of Defense and its service branches have 30 days to respond.

They have indicated that they will respond on or before December 20th, which there are a couple extra days because of when 30 days falls. We had, Yasmin Elhady and I had an in-person meeting a week ago Thursday, on November 29th, at the Department of Defense, with representatives of the Pentagon's Sexual Assault Prevention and Response Office, they call it SAPRO.

And it was a very informative meeting. They had indicated that they will be responding to our discovery requests in a timely manner. They did not ask for extensions as of yet, anyway, which is good because that will give us some time, not a lot of time, but some to evaluate the discovery
responses before the January 11th briefing.

One thing they did tell us is that their fiscal year 2012 data on sexual assaults is not available now, and will not be available until April, which is their statutory deadline to have that data.

So unfortunately, it means that we won't have that for our statutory report. We're going to keep our own statutory deadline. But we will have all the data up until --

And finally you all should have the list of proposed panelists for the January 11th briefing.

Are we taking any questions?

CHAIRMAN CASTO: Hearing none, oh I'm sorry, Commissioner Heriot?

COMMISSIONER HERIOT: On the proposed panelist, when is it that we are expected to put our input in here?

MS. EISEMANN: Well, your input has been sought all along. And that was hopefully communicated to your special assistants.

COMMISSIONER HERIOT: Well, I've got lots of input. I'm happy to talk to you after the meeting.

MS. EISEMANN: Okay, okay then. Yes, I
hadn't gotten any, so I thought there hadn't been any input. Okay, well then we can talk after.

COMMISSIONER GAZIANO: I had a momentary distraction. What is the date of the briefing?

MS. EISEMANN: January 11th.

COMMISSIONER GAZIANO: January 11th.

Oh, it's up?

CHAIRMAN CASTO: Oh, you don't have this?

COMMISSIONER GAZIANO: Oh, no. I didn't. I thought it was for today's briefing. Okay, sorry. This helps. I don't know. I'm aware of some of these witnesses' backgrounds, but not others.

And so I might have been trying to contact someone, but I've been traveling a lot this week, who might be able to suggest a witness or two.

So my apologies for not reaching them before then. Since this is five weeks away, I know it's over holidays, can make appropriate adjustments.

CHAIRMAN CASTO: Any other comments? Questions? Did you raise your hand, Commissioner? No? All right, thank you Miss Eisemann, appreciate it. We'll now move on to an update on the Civil
Rights Implications of the Eminent Domain Abuse briefing.

Ms. Butler, if you could come to the microphone. Thank you. I think you're also going to cover the sex trafficking briefing, so you might as well cover both for us please. Thank you.

UPDATE ON THE CIVIL RIGHTS IMPLICATIONS OF EMINENT DOMAIN ABUSE BRIEFING

MS. BUTLER: Good afternoon. We've made all the necessary ERB and LSR changes to the draft report. I'm going over it one more time just to make sure everything's okay and we will have a draft for someone to review Thursday morning.

UPDATE ON THE SEX TRAFFICKING: A GENDER-BASED VIOLATION OF CIVIL RIGHTS BRIEFING

MS. BUTLER: And on “Sex Trafficking,” a draft for that report won't be finished until probably close to the end of January.

CHAIRMAN CASTO: Any questions for Ms. Butler? Hearing none, thank you. We'll move on to the next item, which is, let's see, the regional programs report. Mr. Mussatt?

III. MANAGEMENT AND OPERATIONS

CHIEF OF REGIONAL PROGRAMS REPORT

MR. MUSSATT: Mr. Chairman, thank you.
You received the RPCU monthly report and spreadsheets in your packets. If you have any questions, I would be happy to answer that. I just wanted to add two additional updates today.

One being yesterday, actually, the Georgia SAC submitted a project proposal. And under AI 57, Section 4-02 and Section 8, it's pretty clear that the staff director has to approve those project proposals.

And as you know, there's no staff director right now. So that's an issue for --

COMMISSIONER HERIOT: Can we make a motion to have the thing be approved by David? Or by the Chairman, whatever you prefer?

CHAIRMAN CASTO: I think it would probably be more appropriate for the RPCU chief, simply because as you know, the rule that we as Commissioners should not impact the programs that the SACs choose to promulgate.

COMMISSIONER HERIOT: That's also a rule that the staff is not supposed to do that.

CHAIRMAN CASTO: But he's at least in the office, the position is actually in the office of the staff director of the RPCU. So if you're willing to make a motion, I think it's more
appropriate that he do it than I do it.

COMMISSIONER HERIOT: Okay, I make a motion that in the absence of a staff director, that for the next three months that David Mussatt be authorized to act in the place of the staff director for the purpose of approving such reports.

MR. MUSSATT: Proposals, just to be clear.

CHAIRMAN CASTO: Proposals. Do we have a second to that?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN CASTO: Okay, any additional discussion? If not, let me take a vote on that. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTO: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Abstain.

CHAIRMAN CASTO: Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: Abstain.

CHAIRMAN CASTO: Commissioner Kladney,
how do you vote?

COMMISSIONER KLANDNEY: I abstain.

CHAIRMAN CASTRO: Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRMAN CASTRO: And I vote yes. So we have one, two, three, four yeses, three abstentions and a no. So that authority is for the next three months in Mr. Mussatt's hands. Okay.

IV. STATE ADVISORY COMMITTEE ISSUES

REVIEW OF PROPOSED CHARTER FOR SACS

MR. MUSSATT: The other issue deals with the ongoing work of the subcommittee, which is trying to promote the efficiency and effectiveness with our regional offices and State Advisory Committees.

And we are continuing to work on the draft of the revised AI 5-9 as I notified you last time I spoke. We're still wrapping up things with that, and some issues with the CFR, a CFR change that has to go through later on in the next fiscal year, or next calendar year, I should say.

The one change that I wanted to, that is
in your packet and I want to present today dealt with the charter. And just to be clear, I wanted to kind of go back and remind you that the charter is, to use an analogy, I don't want to push too far, is like the registration to vote.

You have to register first, so this is the charter that kind of establishes that these Committees exist. And they have to be re-filed every two years. It's pretty straight, clear.

Presently, what we're doing is we're filing 51 of these every two years for each advisory committee. The document is the same for all 51 except that the name of the SAC changes, obviously, and the cost may be slightly different.

Upon the work of the subcommittee and with the approval of our Committee Management Secretariat and General Counsel's office, in your packet is a one unified charter which basically charters all 51 State Advisory Committees immediately.

And that's it. But the second step, which is the bigger step of course, is the appointment of members. So that doesn't change anything. So in a way, it changes things because now the RPCU only has to file one charter every two
years instead of 51 charters every two years.

So it helps with the efficiency in that standpoint. But as far as getting State Advisory Committees administratively active, it doesn't do anything because that is still for the Commissioners to appoint members, and Commissioner Heriot and Commissioner Achtenberg are still working on.

I'll just mention, too, that I think that, you know, besides the efficiencies that I think it is important because it helps us along with our compliance that the State Advisory Committees are not discretionary. They're in statute.

And so by at least chartering them, if you go into the FACA database, they'll see that at least, you know, we have complied with the statute to that regard.

And it also is helping with our relationships to the GSA and the Committee Management Secretariat who have been seeing the work on the State Advisory Committees and it's important for them to see positive movement in this regard because a lot of times, they're the ones who get the calls from the media and from Congress about what's going on.

So it's important to show them that
we're making efforts and improvement. So I'll be happy to answer any questions about that.

CHAIRMAN CASTO: Anyone have any questions about the unified charter? Commissioner Gaziano?

COMMISSIONER GAZIANO: Again, I'm even more obtuse, as someone observed today. Maybe from lack of sleep. I took a red eye to be here. Gail does that all the time, I just don't know how she does it, and others.

If we have this unified charter but the terms of members of a particular SAC expired, then how does that solve the problem for that particular SAC? Does that --

MR. MUSSATT: Once the terms of the members expired, the SAC would be administratively inactive. So if we go Monday and I file this charter up, 51 SACs will be chartered. But the same number, 27 that are administratively inactive today will still be administratively inactive on Monday.

COMMISSIONER GAZIANO: Then how does this help?

MR. MUSSATT: That was my point. The only way it helps is, I think, administratively for the RPCU, it helps because it lowers the workload of
having to file 51 of these every two years. Now we just have to file one.

And then just, again, the steps towards compliance with our statute and with good faith effort.

COMMISSIONER GAZIANO: Help me with the thing. We still, then, would have to nominate a SAC package. And if that work any less under this unified charter?

MR. MUSSATT: Well, I mean --

COMMISSIONER HERIOT: Kind of rhetorical, then.

MR. MUSSATT: Just omit the words where we're chartering --

COMMISSIONER HERIOT: Fifty-one SACs were chartered, but they're not --

MR. MUSSATT: -- we're just putting in members.

COMMISSIONER GAZIANO: Oh, okay.

MR. MUSSATT: I mean, we've kind of done things backwards. I mean, you're supposed to charter and appoint members. And we've always appointed members, then chartered. And it's just, I think, a bad habit we got into.

COMMISSIONER GAZIANO: People are
whispering things.

MR. MUSSATT: Okay.

COMMISSIONER GAZIANO: Okay, I think I may understand a few advantages.

CHAIRMAN CASTO: Trying to bring it all back into the way it's supposed to be in terms of compliance.

COMMISSIONER GAZIANO: And I don't know if you're the right person to ask this, or whether it's the subcommittee, but I understand that we may still be considering four year terms going forward?

MR. MUSSATT: That was one of the suggestions, lowering the minimum from 11 SAC members to eight. And what was the other thing? Oh, we had a constructive resignation provision that we were working on. So those were the three things that we had talked about since we started.

CHAIRMAN CASTO: This unified charter is separate from that issue.

COMMISSIONER ACHTENBERG: And I would also point out that we're going to deal with the substantive issues in a business meeting that we've called specifically to deal with those issues. That will be held the day after the Lincoln Cottage.

That will be held on the 4th. So I
mean, this was a nice step in the right direction. But it doesn't solve the problem completely for a permit. But we'll discuss that at the next --

COMMISSIONER YAKI: It's like a theoretical contract, Commissioner Gaziano, or like the unified field theory in physics, except that without the time zone wormhole, kind of.

CHAIRMAN CASTO: Yes well, so do we need to take any action on this unified charter? Do we need to give you our blessing?

(Off microphone comments.)

CHAIRMAN CASTO: So I'll make a motion to --

COMMISSIONER ACHTENBERG: I would like to --

CHAIRMAN CASTO: Sorry, go ahead. You make the motion.

COMMISSIONER ACHTENBERG: No, no.

CHAIRMAN CASTO: I'll make a motion that we adopt the unified charter. Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTO: Any additional discussion? If not, I'll take a vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.
CHAIRMAN CASTO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTO: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTO: Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN CASTO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADENY: Yes.

CHAIRMAN CASTO: Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTO: Commissioner Yaki?

COMMISSIONER YAKI: Yes.

CHAIRMAN CASTO: I vote yes. So we have a unanimous vote. Good, thank you. That serves as cause for congratulations. So now we have, I believe Ms. Hepler, you're going to do an ethics training for us?

(Off microphone comments.)

COMMISSIONER YAKI: Oh dear God, do we have to do this?
CHAIRMAN CASTO: Last but not least.

COMMISSIONER YAKI: We've got it on our screen.

(Off microphone comments.)

**OGC TRAINING**

MS. HEPLER: Oh, you have your screens, okay.

COMMISSIONER Kladney: May I ask a question?

MS. HEPLER: Sure.

COMMISSIONER Kladney: Can I get the, like, CLE for this stuff?

CHAIRMAN CASTRO: I think you have to present this to your bar. I think she was asked that last time.

MS. HEPLER: If you tell me what you need, and I can try to, you know, see if I can get it to you.

COMMISSIONER Kladney: Okay.

MS. HEPLER: I don't know what the bar requires.

COMMISSIONER Kladney: I'll get it.

MS. HEPLER: For mine, they require --

COMMISSIONER YAKI: We only need one and a half hours in California --
CHAIRMAN CASTO: We're on the record. We didn't go off the record. Oh, okay yes. You need to be on the mic then.

MS. HEPLER: Okay. Oh, I'm sorry. If you let me know, I know I just went through this recently. They required the program or an outline in this case, it's real short, and the time. This was Florida.

And then they wanted some information about the speaker, which I can find out what they want.

COMMISSIONER KLANDNEY: Thank you.

CHAIRMAN CASTO: Please proceed.

MS. HEPLER: This is your last one. This is, there's supposed to be an hour of training per year, and this is the last one. And then because of the holiday season, I picked charitable fund-raising.

COMMISSIONER HERIOT: Okay.

MS. HEPLER: And I think Michele, you're going to run it? Why don't you run it? Okay.

(Off microphone comments.)

MS. HEPLER: Okay, let's go to the next one, please. Okay. And in your official duty capacity as a Commissioner --
(Off microphone comments.)

CHAIRMAN CASTO: Attention, please?

MS. HEPLER: As a Commissioner Special Assistant, there are three types of charity, three permissible methods. And one is the called the Combined Federal Campaign.

Another is a Special Collection with the Director of the Office of Personnel Management. And the third is a Gifts-in-Kind collection. Next, the Combined Federal Campaign is the only solicitation of employees allowed normally in the Federal workplace on behalf of charitable organizations.

And the employees may engage in fund-raising in their official capacity in the Government workplace only through certain CFC rules. And now Yasmin's going to talk to you about CFC because she is the agent, one of the Agency’s CFC key workers. What do you call them?

MS. ELHADY: Keyworker.

MS. HEPLER: Yes, whatever you call them.

MS. ELHADY: Hi, everybody. I'll try to be short and sweet. CFC --

CHAIRMAN CASTO: Get to the microphone so that we can --
MS. HEPLER: You've got slides, too.

MS. ELHADY: I do, I have slides. Is this fine?

CHAIRMAN CASTO: Yes.

MS. ELHADY: Can you hear me? Okay. So CFC is the Combined Federal Campaign. And just like Ms. Hepler explained, it's the only authorized solicitation of employees in the federal workplace.

And we have been doing awesome with CFC, just so you guys know, the Commission. We have met our goal each year now for five years, which is a really big deal. And our goal has been around $5,000 every year, and we've raised that.

Can I get the next one please, Michele?

So just a little bit about CFC. We started in 1971. Well, actually we started prior to that in the '60s by President Kennedy, but it was official in 1971 under President Nixon, I believe.

And it became the uniform method of authorized fund-raising for the federal service. And the big, nice thing that happened in 1971 is that you could get a payroll deduction directly from your salary.

So you wouldn't even have to worry about the giving, made giving super, super easy. And
today, now there's over 20,000 non-profit organizations that participate in the CFC worldwide.

If you want to click on that little -- I had made sound effects, but maybe we can't do it. Next, please. It was like that little, you know that little speaker. If you want to just click it, Michele?

MS. YORKMAN: It’s not going to work.

MS. ELHARDY: Oh, it's not going to work? Okay, no problem. Okay.

VICE CHAIR THERNSTROM: Where is the list of these non-profits?

MS. ELHADY: That's a great question, and that's the next slide. You can go online to CFCNCA.org. And what's really wonderful about the website is that it's super user friendly.

You sign in, you say I want to donate. And from there, you go directly --

VICE CHAIR THERNSTROM: What if you don't want to donate, you just want to look at the list?

MS. ELHADY: Well, you would have to go through that process if you want to look at the list online. There's two lists, actually, so let me back up. There's two lists.
One list is if you just want to look at the catalogue. You can get that online very, very easily, and I can send that actual hyperlink to you. But it's long and it's a PDF.

And that's called the Book of Giving; it's the catalogue of giving for 2012. I can send that to you, it's just a really long URL so I didn't put that here. You can also get it off of CFCNCA.org.

If you want to hit the donate button, what you get that's nice, that you don't get necessarily in the book is that you get to see all of the percentage overhead costs for each of these organizations.

So it makes it really, really easy to get a wealth of information about each of these non-profits. So you get the overhead cost percentage. Next, please?

So I just want to reiterate that now, for five years strong, we've never fallen short of our $5,000 goal. But we need your help, so we're calling on you. That little sound effect was a telephone call.

We need your help. Right now, we're at around $1,000. We need to get to $5,000. It would
be really wonderful if all of you gave a little bit, each of you giving a little bit together is how we get, you know, our goal every year.

We also did a music video that I can send to you guys later, if you're interested. The office did a music video because we're up for an award because we keep on meeting our goal and because we're creative. And it is to the song “Cupid” by Sam Cooke. But it's called “Hope.”

(Off microphone comments.)

MS. ELHADY: So it was really, really nice.

MS. ELHADY: Oh, sorry?

COMMISSIONER YAKI: Not “Change is Going to Come” by Sam Cooke?

MS. ELHADY: No, just Cupid because it's Cupid draw back your bow. But it's hope, it's the best gift.

COMMISSIONER GAZIANO: I remember there used to be rules when I was full time in the federal government about how you can make appeals to your colleagues.

MS. ELHADY: Yes.

COMMISSIONER GAZIANO: And I would think that you could be more pushy with us than we could
be with you. Okay? I'm trying to draw out the efforts part of this, okay.

MS. ELHADY: Okay, yes.

MS. HEPLER: Well, that's coming at the end.

COMMISSIONER GAZIANO: Oh, okay.

MS. ELHADY: Yes.

MS. HEPLER: We're going back to that.

MS. ELHADY: But that's good that you noticed that. You know, a subordinate can --

COMMISSIONER YAKI: Todd, had they invented the dollar when you were working in the federal government?

MS. ELHADY: -- ask a superior, but a superior cannot usually ask a subordinate because it's seemingly ethically problematic. Yes, ma'am?

COMMISSIONER HERIOT: I'm just confused about all of this.

MS. ELHADY: Sure.

COMMISSIONER HERIOT: The Combined Federal Campaign, do people go through and pick particular charities on the list?

MS. ELHADY: Sure. That's exactly what they do.

COMMISSIONER GAZIANO: The Veteran's

COMMISSIONER HERIOT: I don't have to just give to the Campaign?

MS. ELHADY: No. You don't give to the Campaign generally. You choose exactly what you want. It's so easy to give. You can give a onetime donation, or you can give by payroll deduction, so it's taken out of your account over time to make it easier.

COMMISSIONER HERIOT: Okay.

MS. ELHADY: Okay? And what's really wonderful, like I said, is we have so many. We have thousands, literally, of charities participating. So you get so much freedom to choose what you want.

VICE CHAIR THERNSTROM: What are the criteria by which the charities are chosen?

MS. ELHADY: Good question. You have to be a 501(c)(3) organization. And under, you know, IRS law, 501(c)(3)s can't be involved in any sort of political activity. They have to be for a non-profit charitable purpose.

VICE CHAIR THERNSTROM: What about a 501(c)(3) that this list hasn't heard of?

MS. ELHADY: Well, you don't have to necessarily be a 501(c)(3) that the CFC hasn't heard
of and received through CFC. So you can obviously give privately.

But if you want to give through CFC to make it easier for you, we recommend that you choose one that has come to the attention of the Combined Federal Campaign. The process of applying is super simple, actually.

You can also look at CFCNCA.org to see how, if you were a charity and you wanted to be involved and be a part of the list, super easy.

And just really quick, CFCNCA's just a National Capital area. So there's 187 campaigns across the nation. So CFC has, we're divided in geographical locations.

So we are in the National Capital area, just so you guys know. But CFC has raised over $7 billion. It's pretty amazing.

COMMISSIONER GAZIANO: And for the record, the fact that Commissioner Yaki's flying airplanes and making paper -- does that mean he's not taking this sort of ethics seriously, or that he's taking it super seriously?

CHAIRMAN CASTO: If we could be respectful and sit down and listen to the presentation that would be great. I know it's been
a long day for all of us, and we're all getting antsy.

MS. ELHADY: I think now that he's being called out on the record, I'm sure he'll give to the campaign. Thank you.

(Laughter.)

COMMISSIONER YAKI: Better people have tried.

MS. HEPLER: Okay. And so I just want to go through the two other ways that you can give in the government as official duty.

And one is, there’s a special collection when the director of the Office of Personnel Management authorizes it and he may grant permission for solicitations of federal employees outside of CFC and support emergencies.

And as you can imagine, he permitted one for Hurricane Sandy victims. Next please? The other thing that's interesting is they permit gifts in kind. So we can have collections of food, toys and clothing here.

And if you saw when you came in, I couldn't get this out before, they're collecting toys down when you walk in for Salvation Army to give out. Next please, Michele.

And this is where you get into the
personal capacity, I think, some of the things you were talking about. Well, no this is different. You're free to fund-raise in your personal capacity.

      But again, this is not official duty. The others were official duty. Remember; do not solicit on official duty time, on federal government property.

Your federal government subordinate, I know the special assistants or full time employees, but they're your subordinates. So for your other jobs, you're not supposed to be soliciting from them.

      And don't use your government resources and don't use your official title or authority. And don't use anyone that's a prohibited source.

   COMMISSIONER HERIOT: What's a prohibited source?

   MS. HEPLER: A prohibited source, talk to me. It's hard to come up with one here. So if you have someone, you think? What? No. I mean, and it's very hard for us --

   COMMISSIONER HERIOT: We have worked doing contracting work that, you know --

   MS. HEPLER: I'm sorry?

   COMMISSIONER HERIOT: I'm a government
contract specialist. I let out, you know, government contracts. Presumably I cannot solicit someone who's seeking a government contract, or a personnel office. This doesn't really apply, I don't think, to us very usefully.

VICE CHAIR THERNSTROM: I still need a clarification here. I still don't understand something. What if you know a 510(c)(3) that's not on their list. Let's say it's just recently formed. Can you give to it?

MS. HEPLER: You can, yes. I mean --

MS. ELHADY: Yes, you can give through it, but not through CFC until it becomes vetted through CFC. And that process is just to make sure that all the organizations are legitimate.

CHAIRMAN CASTO: So is there some way to bring these organizations to the CFC's attention?

MS. ELHADY: You sure can. And they can actually apply online, super simple. That's it. Apply for recognition online to be included within the campaign. And that's why the book is so big. It's fantastic.

VICE CHAIR THERNSTROM: That's why what?

MS. ELHADY: That's why there's so many organizations to choose from, because the book is so
fantastically big.

COMMISSIONER YAKI: Doesn't the CFC stuff usually comes in your payroll stuff from --

MS. ELHADY: Sure, you can choose that or you can choose a onetime online gift.

COMMISSIONER HERIOT: When's the deadline for the raising the $5,000?

MS. ELHADY: Good question. Okay, so the deadline is December 15th. And notice I did not say that. I was going to tell you that afterwards. December 15th. So we've tried as much as possible to do the push here. But we were hoping for you guys to give us that final push.

COMMISSIONER HERIOT: Mail me to make sure I don't forget.

MS. ELHADY: Yes, ma'am. Okay thank you.

CHAIRMAN CASTO: Questions?

COMMISSIONER YAKI: Is there an emailable form?

MS. ELHADY: Sure, there is an emailable link. And on that link, you can easily donate online. And I'll make sure to send that to you.

COMMISSIONER YAKI: Send it to all the Commissioners.
MS. ELHADY: Sure, I will send it to all everyone. And I can also send the music video to whoever's interested. But it is in --

COMMISSIONER YAKI: Because I wasn't paying attention.

V. ADJOURN MEETING

CHAIRMAN CASTO: Any other questions? If not, thank you both very much. I make a motion to adjourn.

COMMISSIONER KLANDNEY: Second.

CHAIRMAN CASTO: All those in favor?

(Chorus of ayes.)

CHAIRMAN CASTO: Happy Holidays, everyone.

(Whereupon, the meeting in the above-entitled matter was concluded at 3:33 p.m.)