U.S. COMMISSION ON CIVIL RIGHTS
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EDITED

MEETING
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FRIDAY, JULY 25, 2014
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The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 2:05 p.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

ROBERTA ACHTENBERG, Commissioner

GAIL L. HERIOT, Commissioner

PETER KIRSANOW, Commissioner

DAVID Kladney, Commissioner

KAREN K. NARASAKI, Commissioner

PATRICIA TIMMONS-GOODSON, Commissioner

MICHAEL YAKI, Commissioner*

MARLENE SALLO, Staff Director

JENNIFER CRON HEPLER

* Present via telephone
** Present via videoteleconference
STAFF PRESENT:
PAMELA DUNSTON, Chief, ASCD
DORIS GILLIAM
ALFREDA GREENE
JENNIFER HEPLER, Parliamentarian
PETER MINARIK, Director, WRO*
DAVID MUSSATT, Director of RPCU*
LENORE OSTROWSKY, PAU
OREY SMITH, General Counsel
MICHELE YORKMAN, Director, IT

COMMISSIONER ASSISTANTS PRESENT:
ALEC DEULL
KENISHIA GRANT
CLARISSA MULDER
JUANA SILVERIO
ALISON SOMIN
KIMBERLY TOLHURST

INTERNS PRESENT:
MELISSA BROWER
JEFFREY JOSEPH
ELENA LOPEZ
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CHAIRMAN CASTRO: Okay, meeting is coming to order. This is our regular monthly meeting of the U.S. Commission on Civil Rights. It is currently, the exact time is 2:05 Eastern Time on July 25th. The meeting is occurring at our Commission headquarters, 1331 Pennsylvania Avenue, N.W., Washington, D.C.

I'm Chairman Marty Castro. Commissioners who are present with me here today are Commissioner Heriot, Commissioner Kirsanow, Commissioner Achtenberg, Commissioner Kladney, and our two newly appointed Commissioners, Commissioner Narasaki, and Commissioner Timmons-Goodson. Commissioner Yaki is on the phone, and so there is a quorum present. Is the Court Reporter present? He is nodding yes. And is the Staff Director present?

STAFF DIRECTOR SALLO: Present.

I. APPROVAL OF THE AGENDA

CHAIRMAN CASTRO: Great. So, the
meeting shall now come to order. Before we do anything, obviously, we need to approve the agenda. Is there a motion? Yes, Commissioner.

COMMISSIONER ACHTENBERG: Mr. Chairman, I'd like to move to amend the agenda to postpone consideration of the State Advisory Committee slate for the State of Virginia and put it off until next month.

CHAIRMAN CASTRO: Okay. So, we have a motion to accept the agenda with the amendment. Is there a second?

COMMISSIONER NARASAKI: Second.

CHAIRMAN CASTRO: Okay, we have a second. Any discussion? Are there any further amendments?

COMMISSIONER KLADNEY: Yes, I would like to make a motion to amend the agenda to add subject to a budget for 2016 the consideration of three concept papers.

CHAIRMAN CASTRO: Okay. I thought we were going to put that off until August?

COMMISSIONER KLADNEY: Oh, right, we
were going to put that off.

    CHAIRMAN CASTRO: Yes.

    COMMISSIONER Kladney: I apologize.

    CHAIRMAN CASTRO: That's okay, no problem. So, then we have one amendment. No further amendments?

    COMMISSIONER KIRSANOW: Mr. Chair, I'd like to move to postpone consideration of the NVRA until next month, also.

    COMMISSIONER HERIOT: Second.

    CHAIRMAN CASTRO: Okay, there's a second on that. How do we vote on these in each individual turn? So, the first amendment will be the deletion of, or the postponement of Virginia SAC?

    COMMISSIONER HERIOT: I think that was made part of the original motion to accept the agenda, because there was no motion to accept the agenda.

    CHAIRMAN CASTRO: Okay. So, let's vote on that --

    COMMISSIONER HERIOT: So, I think the
proper way to do it is to go with the Kirsanow motion.

CHAIRMAN CASTRO: Okay. So, is that right? No. Okay, my Counsel is telling me no, so we'll vote first on the agenda -- why don't we do this? Let's do a motion on the agenda.

COMMISSIONER HERIOT: Could we do Roberts Rules of Order training then? I mean, because this -

CHAIRMAN CASTRO: No, you give me a motion on the agenda. Is there a motion on the agenda?

COMMISSIONER HERIOT: We had that.

COMMISSIONER ACHTENBERG: I move to adopt the agenda.

CHAIRMAN CASTRO: Okay. And there's a second?

COMMISSIONER KLANDNEY: Second.

CHAIRMAN CASTRO: Now, would you remake your motion on the Virginia SAC?

COMMISSIONER ACHTENBERG: I move to amend the agenda to reflect consideration of the
Virginia SAC in August, not in July.

CHAIRMAN CASTRO: Okay. Is there a second to that?

COMMISSIONER KLANDEY: Second.

CHAIRMAN CASTRO: Okay. Now, Commissioner Kirsanow had his motion.

COMMISSIONER KIRSANOW: I move to suspend consideration of the NVRA report for, -- until the August meeting.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN CASTRO: And your mic is not working. Okay, so we'll do the first motion on the first amendment. So, all those in favor of amending the agenda to postpone Virginia until August, I should probably do a roll call on that.

Commissioner Kirsanow, how do you vote?

COMMISSIONER HERIOT: Ask for discussion first. I don't think there will be any, but --

CHAIRMAN CASTRO: Okay. Any
discussion? Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Timmons-Goodson?

COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki.

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kladney.

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: And I vote yes. Wow, we have a unanimous vote, first one.

Next we move on to the motion by Commissioner Kirsanow to postpone the NVRA, did you
say until August?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Okay. Any
discussion?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner

Heriot, then Commissioner Narasaki.

COMMISSIONER HERIOT: I think the
reason I support this is that we have not had time
to review the particular findings and
recommendations that have been proposed. And
there's a possibility that we're going to go for
some of these, but otherwise we're going to have
to vote no.

COMMISSIONER KIRSANOW: And I also have
not had an opportunity to review Commissioner
Yaki's issues. And the last time he did it, I was
very impressed.

CHAIRMAN CASTRO: So, let me ask, do you
have a problem with Part B because you haven't
reviewed it yet? How about Part A?

COMMISSIONER KIRSANOW: Either one.
CHAIRMAN CASTRO: What do you mean?
Both of them, you mean.

COMMISSIONER KIRSANOW: Both of them, that's right.

COMMISSIONER HERIOT: Part A, are we talking about the --

CHAIRMAN CASTRO: The report.

COMMISSIONER HERIOT: -- the body of the report?

CHAIRMAN CASTRO: Yes.

COMMISSIONER HERIOT: I wouldn't mind doing Part A, but if Commissioner Kirsanow hasn't read it, then that's a problem.

COMMISSIONER KIRSANOW: Well, we can --

COMMISSIONER YAKI: Did Commissioner Kirsanow say he was impressed by something I did? I just want to hear that again.

COMMISSIONER KIRSANOW: Commissioner Yaki, this is the second time I've done so.

COMMISSIONER YAKI: I know. It's lightning has struck twice.
CHAIRMAN CASTRO: And you have a transcript you can frame once this is done. Commissioner Kladney, did you have something you wanted to say?

COMMISSIONER Kladney: Not really.

(Simultaneous speech)

CHAIRMAN CASTRO: Yes, Commissioner Kladney.

COMMISSIONER KLADNEY: Commissioner Kirsanow hasn't read the document; I think he should have an opportunity. It's only been a couple of years since we did this briefing, and I'm sure another 30 days won't make a difference.

(Laughter)

CHAIRMAN CASTRO: I'm sorry, Commissioner Narasaki I overlooked you. Did you have something you wanted to add? Commissioner Narasaki has something she wants to say.

COMMISSIONER NARASAKI: It's okay. I'm new so I'm not sure I get a vote on this.

CHAIRMAN CASTRO: Sure you do.

COMMISSIONER NARASAKI: But if we do,
then it would be great to a little bit of time so that we could, so that at least I could look at it.

CHAIRMAN CASTRO: Okay. Good. All right. Any other discussion on this? If not, we'll take a vote?

COMMISSIONER HERIOT: I just want to say one more --

CHAIRMAN CASTRO: Yes, go ahead.

COMMISSIONER HERIOT: I just want to point out for the record that we got this draft, you know, 48 hours ago. It's not like this has been laying around for years.

STAFF DIRECTOR SALLO: You're absolutely correct, Commissioner Heriot, and I apologize for that. Yasmin was --

COMMISSIONER HERIOT: No need to apologize. I mean, you guys have been turning out reports really fast.

STAFF DIRECTOR SALLO: Thank you.

COMMISSIONER HERIOT: So, this is not a reflection on the staff. It's just that --

STAFF DIRECTOR SALLO: Thank you.
COMMISSIONER HERIOT: -- we're trying to do what we can do, too.

STAFF DIRECTOR SALLO: Thank you.

CHAIRMAN CASTRO: Okay. So, we'll vote on that amendment. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Timmons-Goodson, how do you vote?

COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.
CHAIRMAN CASTRO: Commissioner

Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: And I vote yes, so that amendment passes.

II. PROGRAM PLANNING

CONSIDERATION AND VOTE ON COMMISSION LETTER REGARDING FEDERAL RESPONSE TO THE UNACCOMPANIED MINOR IMMIGRANTS

CHAIRMAN CASTRO: So, the next item on the agenda is -- you all, hopefully, had received from me or from the Staff Director on my behalf a draft of a letter that I propose be sent on the issue of unaccompanied minor children on the border, in particular, the federal response. I think we all are very aware of the crisis which has been occurring on our border with the arrival of primarily children from Central America. As you can see from the draft letter, I don't want to get into the root causes of what has happened, but there are substantial reports of allegations of abuse, physical as well as sexual of some of these children
while they’re in federal custody. There are also
issues as relate to due process.

So, what I would like for us to do as
a Commission is to express our concerns to the
federal agencies involved and to the
Administration as it relates to those issues. I
think the letter is pretty straightforward, and I
hope folks have had enough time to look at it. I
know I’ve heard back from some of you about your
intent on supporting this, so I would like to, I
would entertain a motion to support this letter as
a letter from the Commission.

COMMISSIONER Kladney: I move to vote
the letter as a Commission letter.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER Achtenberg: Second.

CHAIRMAN CASTRO: Thank you. Any
discussion?

COMMISSIONER Heriot: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner.

COMMISSIONER Heriot: I believe that my
special assistant sent to your special assistant
my proposed changes to the letter. Did you get a chance to see those?

CHAIRMAN CASTRO: My special assistant did review them with me. I didn't actually physically see them, but we discussed them. And there were some changes, though, that I didn't feel comfortable accepting.

COMMISSIONER HERIOT: Okay, okay. Then that means I'm going to have to abstain.

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: Okay.

CHAIRMAN CASTRO: Any additional discussion or questions? If not, I will take a roll call vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Had those changes been made, I'd have been able to sign the letter but --

CHAIRMAN CASTRO: I appreciate that.

COMMISSIONER HERIOT: I will abstain.
CHAIRMAN CASTRO: Thank you.

Commissioner Timmons-Goodson.

COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki.

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Yaki.

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Aye.

CHAIRMAN CASTRO: Commissioner Kladney.

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: And I vote yes, so that motion passes. Thank you.

Next, we have --

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, ma'am.

COMMISSIONER HERIOT: Can I just clarify a little bit about why for the record here?

CHAIRMAN CASTRO: Sure, please.
COMMISSIONER HERIOT: There were I think four changes I wanted to make to the letter, and one of them I think is simply a matter of what the law is. The PREA, I understand is actually rather controversial, whether it applies at all in this case, so that citation I thought needed to be changed, and instead refer just to the Department's standards.

I also thought the use of the word "gross" there really didn't describe all -- everything that was going on there, and whether to call this a Civil Rights crisis as opposed to a Humanitarian crisis, it's definitely a Humanitarian crisis, and I support that. But I thought it might inappropriate under the circumstances to call it a Civil Rights crisis since that suggests that there's a legal conclusion that has to be drawn here, and I'm not certain that that's the case.

CHAIRMAN CASTRO: Thank you, Commissioner.

COMMISSIONER HERIOT: I do support much
of the spirit of the letter.

CHAIRMAN CASTRO: I appreciate that.

Thank you.

II. PROGRAM PLANNING

DISCUSSION AND VOTE ON THE FY 2015

STATUTORY ENFORCEMENT REPORT TOPIC

CHAIRMAN CASTRO: The next items up are initially -- the way we're going to do this voting on the statutory enforcement report topic for 2015. We're going to do that separately from other topics to consider as briefing topics for 2015. So, what I would propose that we're going to do here is those Commissioners who have one of their concept papers that they wish to have considered for the 2015 enforcement report, I would ask that you give a brief minute or two description about why you propose that. Once we've gone through those that are up for consideration for statutory enforcement report, we will entertain a motion on that.

When we've completed that vote, we will then move on to discuss the other briefing topics using that same process. Now, to the extent
that you've already discussed your concept paper for 2015 as a statutory report and it didn't pass, you can certainly bring that back as a briefing topic, and we will vote on it then.

So, with that said, I am proposing that we consider -- I'm sorry -- oh, yes. So, I'm going to ask, well, first what I'm going to do is describe my paper and then we'll open it up for motions. Do you, any of you have other papers that folks want to consider. I know our conservative colleagues presented some papers for consideration today. I don't know if any of those are up for consideration as a statutory enforcement report, but if there are, I would invite you to describe that paper at this point.

But I'll take the initiative and describe my immigration detention paper, which some of you may recall about a year ago or sometime in the last fiscal year I presented a version of this among a large number of concept papers that were under consideration at the time. Take a close look at the civil rights conditions in these
immigration detention facilities that exist in various parts of our country.

Given what's been happening the last few weeks on the border with these border children, that has made this what I consider to be a very important civil rights issue, even more pressing given some of the allegations that we hear about the treatment of these children. This report is not only about the children, but given what is going on currently, I think it makes it even more germane that we take a look at this topic sooner rather than later because this is an issue that is currently at the forefront of national discourse, and more importantly these children, in particular, are at least alleged to be in certain conditions that would not comport with what we believe is the right thing to do. But we want to investigate more broadly these conditions at these immigration detention facilities, and because of the timeliness of the issue, I think it would be important to present it as a statutory enforcement report. It's got the federal jurisdiction. Our Office of General
Counsel has reviewed that and determined that we would have jurisdiction as a statutory enforcement topic because we would be looking at these various federal agencies that have civil rights enforcement authority over these facilities, and these individuals in the facility.

I'd be happy to answer any questions. If not, then are there any other reports, any other concept papers that my colleagues would like to also have considered before we make a motion? Hearing none, then do we have a motion on statutory enforcement? Yes, Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Yes, Mr. Chairman. I want to move the adoption of the State of Civil Rights at Immigration and Detention Facilities by the Commission for our, adoption as our statutory report topic. I might add that originally I had put forward my Federal Enforcement of PELL Grant and Campus-Based Post-Secondary Education Financial Aid Programs as a potential topic for the statutory report, but in consultation with the Staff Director and the Office of General
Counsel, I think it's more appropriate that that topic be addressed as a hearing topic, as opposed to the statutory enforcement report topic. And I aim to recommend that --

COMMISSIONER HERIOT: Hearing or briefing?

CHAIRMAN CASTRO: She meant briefing.

COMMISSIONER ACHTENBERG: As a briefing. I beg your pardon. As a briefing I aim to recommend that as a briefing when we have the opportunity to make recommendations of briefing topics. So, I happily recommend the adoption of your paper as the statutory enforcement topic.

COMMISSIONER Kladney: I'll second that.

CHAIRMAN CASTRO: Thank you. Any discussion?

COMMISSIONER Yaki: This is Commissioner Yaki.

CHAIRMAN CASTRO: Yes.

COMMISSIONER Yaki: Thank you, Mr. Chair. I support this topic which is something that
I know was important to you when you first came on
to the Commission. And the only point I want to make
on this is that I hope that in going into this topic
we explore the role and use of how do prisons in
housing some of these families and kids one other
thing that has come up in this whole crisis has been
the Congressionally mandated quota of beds to fill
in these private prisons by its detainees. And if,
in fact, any of these facilities are being used to
detain families or minors, I hope we can look into
that, as well.

CHAIRMAN CASTRO: Thank you,
Commissioner Yaki. Any other comments?
Commissioner Heriot.

COMMISSIONER HERIOT: I just wanted to
clarify how we have jurisdiction over your
proposal.

CHAIRMAN CASTRO: Over this topic?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Can I ask our General
Counsel's Office to explain your approval of
jurisdiction.
GENERAL COUNSEL SMITH: So, we have a total of 22 concept papers, so rather than me individually addressing each at this time, if you have individual questions about a particular concept paper, I invite you to please come see me and I can talk to you about the recommendations that the Office of General Counsel had. But I don't think it's appropriate in the public forum to discuss that. But, needless to say, that the Office of General Counsel did review the concept paper and found it to be within our jurisdictional mandate.

COMMISSIONER HERIOT: You don't think it's appropriate to discuss that right before we vote on it?

GENERAL COUNSEL: No.

COMMISSIONER HERIOT: Why is that?

GENERAL COUNSEL: Certainly, I don't know what the parameters were or how the papers got circulated, but if anyone had questions for me, I wish that they would have come to me prior to the public meeting. For me to address each individual paper, 22 of them, I'm not going to be in a position
right now --

COMMISSIONER HERIOT: Only asking

about the one.

GENERAL COUNSEL: I understand that,

but I'm not going to do that in the public record.

But I do invite you to come see me if you want to
discuss it. I definitely will discuss that with

you, with no reservation.

(Simultaneous speech)

COMMISSIONER KLADNEY: Isn't that a

public subject?

COMMISSIONER KIRSANOW: Why isn't it

that we should discuss it in a public forum? We've
done so in the past. We've discussed the

jurisdictional aspects of a particular concept

tpaper in public before. What conclusion have you
drawn since then?

GENERAL COUNSEL SMITH: My point with

this is that if I have known that you wanted me to

address each one of your papers --

COMMISSIONER HERIOT: We only want the

one.
GENERAL COUNSEL: No, what I'm saying is, is that you guys have 22 of them, so you know your own individual ones. I would need to recall exactly what was in the paper itself, so I'm asking you to give me that deference, if you have questions to please come see me so that I can explain it to you. I don't want to say something erroneously that I don't recall off the top of my head. That's all I'm saying.

CHAIRMAN CASTRO: In my opinion, not going to answer on behalf of the General Counsel, but if you do look at the briefing paper, at the concept paper it clearly indicates several federal agencies here that have the authority not only to detain these young people, but also to care for them and are, therefore, in charge of responsible for providing for their civil rights, including the Department of Homeland Security, ICE. We have the Border Patrol, the Immigration Division, Health and Human Services. We also have the Department of the DHS, Homeland Security itself; we have allegations of the PREA which is a piece of federal
legislation which is implicated here. So, clearly, there are a number of federal enforcement and jurisdictional points that are raised in this topic that would allow us to have federal jurisdiction on the topic.

COMMISSIONER HERIOT: Does it involve discrimination or denials of equal protection based on race, sex, national origin, disability? I mean, if you could just tell me which hook you're looking for.

CHAIRMAN CASTRO: It may very well be, denial of equal protection, and the administration of justice as to immigrant detainees, so there's national origin there. These children are also Hispanic children for the most part, the children but, generally speaking, this is not just limited again to the border children, this is in the broadest sense of the immigration detention facilities. And if you look at the immigration detention facilities, you know, they are overwhelmingly housing people of color, so I-- there are both issues as relate to national
origin, possibly race and ethnicity, but clearly under our jurisdictional mandate of equal protection and the administration of justice that is also an additional ground for our having authority to do this as a statutory enforcement report.

Any other questions? If not, we will vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Commissioner Timmons-Goodson, how do you vote?

COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Yes? Okay. Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: I'm abstaining.

CHAIRMAN CASTRO: Okay. Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.
CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Aye.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: And I vote yes, so that's one, two, three, four, five yeses, two nos and an abstention, so the motion passes for the State of Civil Rights at Immigration Detention Facilities to be the briefing, the Statutory Enforcement topic for Fiscal Year 2015. Thank you, everybody. This is a very important issue, and I'm glad we're going to be able to weigh in on it. Appreciate it.

II. PROGRAM PLANNING

DISCUSSION AND VOTE ON TWO BRIEFING TOPICS FOR FY 2015

CHAIRMAN CASTRO: Now, we will move on to consideration and ultimate selection of two topics for Fiscal Year '15 briefing topics. Commissioners have circulated a number of papers,
and I would invite Commissioners who wish to present the background information on their paper to identify themselves and let me know. Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Mr. Chairman, I want to propose two papers for two separate briefings. The first is the PELL Grant and Campus-Based Aid paper that I submitted for the body's consideration first as a proposed statutory report, but as I explained now instead of that as a hearing, I'm sorry, as a briefing topic.

With the possible reauthorization of the Higher Education Act in the offing, and given the disparities in higher education enrollment, persistence and achievement that is currently being experienced by students of both African American students and Latino students, and given the various forms of federal assistance that are provided all students, what I want to examine here is the funding formulae that pertain both to PELL Grant, as well as campus various three forms of campus-based assistance, and try and determine the
extent to which, if at all, the way these grants, and loans, and college work study are funded contributes to the current disparities that we are experiencing in enrollment persistence and achievement on the basis of color, race, and national origin.

In my university experience, I believe this to be a problem. Many commentators believe it to be a problem, and I think it would be very important for this Commission to determine if, indeed, there is a problem here that rises to the level of a civil rights challenge of which we should be aware and be in a position to comment on for the benefit of the Congress and the President as they consider future actions on this topic.

CHAIRMAN CASTRO: Do you want to speak to the second paper, as well? Oh, that was both of them.

COMMISSIONER ACHTENBERG: No, that was the first one.

CHAIRMAN CASTRO: Okay.

COMMISSIONER ACHTENBERG: My second
proposal is one to examine workplace discrimination against lesbian, gay, bisexual, and transgender Americans. There are numerous legislative proposals to address this longstanding challenge to civil and human rights. There are a number of Presidential Executive Orders that have addressed parts of this issue. There are a number of state laws and local ordinances that have been adopted as an attempt to address this issue. And I would like the Commission really for the very first time, even though this issue has been a lively one in the civil rights debate for more than 35 years, a proposed piece of federal legislation having languished in the Congress for more than 20 years, I think it's about time that this Commission examine this issue and make some determinations about how pervasive and extensive the problem is, and whether or not this Commission with its expertise might make recommendations about how the Nation might more uniformly address what I believe to be an exceedingly important issue for everyone, actually, but particularly for LGBT Americans. So,
that's the nature of my second paper, and I'm happy
to answer any questions that people might have
about why that's both a problem, and why it's an
appropriate topic for this body to address.

CHAIRMAN CASTRO: Okay. Are there other
topics that Commissioners wish to brief us on?
Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes, I do.

Thanks. I had several, I'm not sure if I'm going
to re-propose all of them, but the one that I would
like to address right now is, I had a concept paper,
I think it's been pending for a while dealing with
the discrimination against Asian Americans in
higher education. It was a matter that was
reintroduced into public consciousness just
recently when there was a proposal in California
to repeal Prop 209. As you know, when Prop 209 came
into existence, there was a significant increase
of Asian Americans in institutions of higher
education throughout California. There was also a
fairly substantial body of scholarship related to
the effect of admissions policies on Asian
Americans in higher education, and the higher standards to which Asian American students are held in the admission process, and who knows what other processes.

And so, the essence of the inquiry would be to address the extent to which university admissions policies discriminate, if at all, against Asian Americans.

CHAIRMAN CASTRO: Any other paper topics that folks would like to present?

COMMISSIONER HERIOT: I think I'm not going to propose my topics. I was just going to invite Commissioner Yaki to propose his voter fraud topic.

CHAIRMAN CASTRO: Commissioner Yaki, did you want to put that forward now, or did you want to wait?

COMMISSIONER YAKI: I was going to talk about something else first.

CHAIRMAN CASTRO: Okay.

COMMISSIONER YAKI: What I wanted to
talk about first, it comes on the heels of the
discussion today, and that is -- and I talked about
it in previous iterations with this Commission, and
no surprise but I've been very concerned about the
rise in racially-based incidents on U.S. college
and university campuses. And I don't know if I'm
actually going to propose it today, but I just
through apropos of our discussion today it raises
many of the same issues that were brought up by the
speakers today, and that is the -- I don't think
there is as much tension as others would think
between the First Amendment and egregious examples
of racist activities and conduct on our college
campuses to the extent that the Computation Service
of the Department of Justice in 2003 reported that
there's no claims where hate crimes are occurring
with increasing frequency, more visibility and
hostility than in institutions of higher
education.

We find examples where the theme
parties that denigrate the African Americans, a
race on mutation of the Martin Luther King, Jr.
holiday; it's the same thing with Cinco de Mayo and Hispanics. You have horrible graffiti such as "Emmett Till deserved to die" at a campus in SUNY in New York. Close to home in November of last year, three San Jose students were charged with a hate crime for clamping a bicycle lock around an African American student's neck and painting his bedroom with a Confederate flag, Nazi symbols, (inaudible), Hitler, you had defacing of statues, so likely there's at campuses in the South, it's something where it's -- it's a very big concern of mine because it used to be a safe place for people to go to exchange and debate and discuss important issues of the day has now become a place where intolerance has, and I wanted to take a look at all these issues and see what happened today in the briefing on sexual harassment. You see a lot of the same parallels in terms of those who would wish (unintelligible due to telephonic interference) which evolved in terms of preventing these things and others who want to have more standards and more, more aggressive. I'm sure you could bring that up,
but I am not going to propose it at this time, given that it was close in some ways to the last briefing that we just had, but it is important, it is something that we should bring up at some point in time. And at some point, I'm wondering if there's some other ability to bring up topics short of full-blown reports which I've talked about for years that would allow us to conduct a wider range of inquiry on a wider range of issues that don't necessarily have to result in findings, recommendations, and other staff and time consuming methodologies that prevent us from being more nimble in bringing the attention of our counselors and scholars to issues such as (unintelligible due to telephonic interference) for years. In this case I think over a decade in the making.

STAFF DIRECTOR SALLO: If I may, Mr. Chairman.

CHAIRMAN CASTRO: Yes, go ahead.

STAFF DIRECTOR SALLO: This is the Staff Director. I wanted to advise you,
Commissioner Yaki and all the Commissioners that the thought that Commissioner Yaki has about possibly bringing forth other topics without having to produce reports or issue findings and recommendations has already been discussed. I have discussed with the Chair, the General Counsel and I have discussed that and, obviously, we are open to that, and we're amendable to that, but I will still need to depend upon my budget. So, once the budget is received we can see how we can make that work, but it is a very viable option and one that we would look forward to being able to implement.

CHAIRMAN CASTRO: Thank you. So, we had presentation now on three concept papers. We're to choose two today to round out 2015. Is there any other concept paper that's been submitted already that has not been described that you want to vote on? Hearing none, then I will entertain a motion or motions, actually, on the selection of two topics for 2015 briefing. Any motion, Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Mr.
Chairman, at the risk of appearing self-serving, I'd like to make a motion to adopt my federal enforcement of PELL grant and campus-based aid grant briefing paper with the understanding that additional reformulation of the topic will ensue in consultation with the Staff Director and Office of General Counsel, and before work is begun on that, we will submit to this body a copy of the reformulated paper, similar as we have done with other briefing topics that we have adopted essentially in theory, and later clarified with revised papers. So, with the understanding that there's one more revision of this yet to be considered by this body, I'd ask for a vote on this as a preliminary --

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER KLADNEY: I second the motion.

CHAIRMAN CASTRO: Okay. Any discussion? This is the higher education. So, no indication of discussion, so we'll vote on this motion. Yes? We're going to take each one by turn.
I'm sorry.

COMMISSIONER ACHTENBERG: I thought she had her hand up.

CHAIRMAN CASTRO: Oh, okay, no. So, Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Timmons-Goodson, how do you vote?

COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Aye.
Kladney, how do you vote?

COMMISSIONER Kladney: Yes.

CHAIRMAN CASTRO: And I vote yes, as well, so it's unanimous. Any additional motions for the next, the last topic?

COMMISSIONER Kladney: I move to adopt the paper that is described by Commissioner Achtenberg.

CHAIRMAN CASTRO: Could you -- your mic is not working.

COMMISSIONER Kladney: I move to adopt Commissioner Achtenberg's second paper described as ENDA. Well, it's not entitled any, oh, yes, Examining Workplace Discrimination Against Lesbian, Gay, Bisexual, and Transgender Americans.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: Is there discussion?

Commissioner Heriot, I think I saw you raise your hand.

COMMISSIONER HERIOT: I think it's a perfectly legitimate topic, but I would prefer
Commissioner Kirsanow's topic, so that's why I will vote no on this. And I'm perfectly willing to do this topic at some future time, if we can do Commissioner Kirsanow's topic first.

CHAIRMAN CASTRO: Any other comments, questions, discussion? Hearing none, we will take a vote on this topic. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Commissioner Timmons-Goodson, how do you vote?

COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: I think out of abundance of caution, I'm going to recuse myself.

CHAIRMAN CASTRO: So, you're abstaining. Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.
CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Aye.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: I vote yes, so we have one, two, three, four, five yeses, two nos and an abstention, so the motion passes.

Okay. We are now moving on to the next item on our agenda which is the Management and Operations Report.

III. MANAGEMENT AND OPERATIONS

STAFF DIRECTOR'S REPORT

CHAIRMAN CASTRO: Do we have anything, Madam Staff Director?

STAFF DIRECTOR SALLO: Thank you, Chairman Castro.

CHAIRMAN CASTRO: You're welcome.

STAFF DIRECTOR SALLO: I wanted to provide some updates, and I'll follow the same procedure that I followed in the past. But prior
to that, I wanted to let the Commissioners know that we have made an offer for the Office of Civil Rights Examination Director position. It has been accepted, and the new OCRE Director will be starting on Monday, August 11th. And she will be present at the next Commission meeting which will be held on August 15th.

In addition, we have made an offer and it has been accepted for the Social Scientist position, and that gentleman will be starting two weeks after that on the 25th of August, Monday, the 25th. And he comes with a strong statistical social science background, so I look forward to having him on board.

In addition, we advertised for the RPCU Chief position and it has been given permanently to David Mussatt, and he will from this point forward, or as of last week he is not only the coordinator, but he will also be managing the regional offices with the thought process that if and when I move on, he can continue to supervise the regional staff without any problem whatsoever.
As it applies to civil rights analysts, as you know, we currently only have two on staff. I hope to have an advertisement up and ready and live next week to bring on board another civil rights analyst to the OCRE department so that we can have some additional support, so that we can start issuing more comprehensive reports.

And we are also in the last stages of interviewing for the regional director position in the Southern Region, and hopefully that will be filled by the end of August.

So, as I move forward, I wanted to update you on the current reports that we have. The Eminent Domain report has now been published. We have requested to have 50 copies delivered to headquarters so that it can be disseminated to whomever is interested in receiving copies, please let me know.

As it applies to the Statutory Enforcement report, the rebuttals will be due on Tuesday, August 19th, as well as for the Sex Trafficking report and the Arab Muslim report.
The Civil Liberties report had to be reworked, and our editor, unfortunately, was out ill and that's why the NVRA report was also delayed. She was out for over two weeks, she is now back, and I hope to have the Civil Liberties report back and ready for circulation by mid of next week.

And as you also know, the Stand Your Ground is set for Friday, October 17th. We have already selected the venue, and we have the hotel rooms’ reserved, logistical information will be sent out to all staff and Commissioners by the end of August.

Another update as to publications is our Uncle Sam has been sent, has been revised, updated, edited and reformatted, and it has gone to GPO for printing, and the Spanish Uncle Sam version will be going out within the next week, as well, for printing.

COMMISSIONER NARASAKI: I'm sorry. What's Uncle Sam?

STAFF DIRECTOR SALLO: Oh, that is a resource book that we issue from the Commission
that has contact information and background information on every single agency that exists at the national level, that can assist with civil rights matters, and it's separated by subject matter.

COMMISSIONER NARASAKI: Thank you.

STAFF DIRECTOR SALLO: You're welcome.

We also continue to reformat our web page, specifically we will now have a page that will be attributed to the State Advisory Committees, so that will hopefully be up and running by the end of this fiscal year where we will contain all of the SAC reports on that page, the members will also be able to see any updates and information as it applies to the SAC program, in general. And they will be able to access, also, information pertaining to financial disclosures and ethics training that is required of them.

And we are still targeting to stream any meetings -- a meeting of the Commission by the end of this calendar year. We do have the capability now of actually using the web cam to hold meetings.
offsite with other individuals, and I have used that to actually interview individuals that have applied for positions that are out of state. So, I'm very excited that we will ultimately have that capability here in this room, as well.

We have, -- we're in the process of undergoing an audit, as you all know, it happens every year, so we are working closely with that, as well. And we are still waiting as it is indicated in the Staff Director report to receive the final report from the Office of Government Ethics, and as soon as that is provided, I will disseminate that, as well.

CHAIRMAN CASTRO: Any questions for the Staff Director? Seeing none, we will then move on to the appointment of our State Advisory Committees.

IV. STATE ADVISORY COMMITTEE (SAC) APPOINTMENTS

CHAIRMAN CASTRO: I am going to make a motion that the Commission appoint the following individuals to the Arizona Committee, I should say
State Advisory Committee, based upon the recommendation of our Staff Director: Leticia de la Vara, Patrick Dylan, Jose Luis Esparza, Dana Marie Kennedy, Leona Johnston, Jay McKenzie, Andrea L. Martinez, Evangeline M. Nunez, Erin A. Ogletree, Thomas C. Patterson, Jonathan Rose, and Lorena Van Assche.

Pursuant to this motion, the Commission appoints Andrea L. Martinez as Chair of the Arizona State Advisory Committee. These members will serve as uncompensated government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointments. Do I have a second?

COMMISSIONER Kladney: Second.

CHAIRMAN CASTRO: Second. Okay. Any discussion? Hearing none, Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Timmons-Goodson, how do you vote?
COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER Kladney: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote? Commissioner Yaki? Okay, well I vote yes. Commissioner Yaki, are you there?

COMMISSIONER YAKI: Oh, yes, I'm sorry.

CHAIRMAN CASTRO: Okay. It's all right.

COMMISSIONER YAKI: Aye, aye, aye.

CHAIRMAN CASTRO: So the motion passes unanimously.

I am now going to make a motion that
the Commission appoint the following individuals
to the Missouri State Advisory Committee based upon
the recommendation of our Staff Director: S. David
Mitchell, Anton Bockelman, Joan Bergstrom, Miguel
Carranza, Anna Crosslin, Eugene E. Dokes, Barbara
Hammer, John Inazu, Jalesia F. McQueen, David Rose,
James Seal, Michelle Sherod, Alisa Warren, and
Donayle Whitmore.

Pursuant to this motion, the
Commission appoints S. David Mitchell as chair of
the Missouri State Advisory Committee. These
members will serve as uncompensated government
employees. Under this motion, the Commission
authorizes the Staff Director to execute the
appropriate paperwork for the appointments. Do I
have second?

COMMISSIONER Kladney: Second.
CHAIRMAN CASTRO: Any discussion?
Commissioner Heriot.

COMMISSIONER HERIOT: I think this SAC
is very unbalanced, but in fairness I failed to make
some recommendations that I had planned to make,
so it's my fault, but I'm going to have to abstain
on this on account of that.

CHAIRMAN CASTRO: Okay. Any other
questions, comments? If not, I'll call the roll.

Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner
Timmons-Goodson, how do you vote?

COMMISSIONER TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner
Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot,
how do you vote?

COMMISSIONER HERIOT: I abstain.

CHAIRMAN CASTRO: Commissioner
Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner
Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Yaki,
how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: And I vote yes. We have one, two, three, four, five, six yeses, one no, and an abstention, the motion passes.

STAFF DIRECTOR SALLO: Can I say something?

CHAIRMAN CASTRO: Yes, Madam Staff Director.

STAFF DIRECTOR SALLO: I'd like to say thank you to the Commissioners for passing the two SAC slates, and I'd like to bring to everyone's attention that as a result of these two approvals we now only have 10 SACs that remain unappointed with the goal and the hope that we will get all the appointments through by September 30th, since that is the deadline that I've set for staff. So, this puts us at 80 percent viability right now with the SACs.

CHAIRMAN CASTRO: Which is great, we haven't been there in a long time. So, thank you for all the hard work, staff, and Staff Director.
Now I'll entertain a motion to adjourn the meeting.

V. ADJOURN MEETING

COMMISSIONER KLANDNEY: So moved.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: All in favor say aye.

(Chorus of ayes)

CHAIRMAN CASTRO: Any opposed, any abstentions? Okay, you can go home. Thank you, everyone. This meeting is now adjourned at 2:54 p.m. Eastern Time.

(Whereupon, the above-entitled matter went off the record at 2:54 p.m.)