U.S. COMMISSION ON CIVIL RIGHTS

MEETING

FRIDAY, MARCH 14, 2014

The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 2:00 p.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman
ROBERTA ACHTENBERG, Commissioner
GAIL HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
DAVID Kladney, Commissioner*
MICHAEL YAKI, Commissioner*

MARLENE SALLO, Staff Director

* Present via telephone
STAFF PRESENT:

RYAN COWDIN
BARBARA de LA VIEZ, Deputy Director
LILLIAN DUNLAP
PAMELA DUNSTON, Chief, ASCD
YASMIN ELHADY
NICHOLAS GINSBERG
JENNIFER HEPLER, Parliamentarian
MYRNA HERNANDEZ
JOHN RATCLIFFE
EILEEN RUDERT
JACOB SIMS
ROREY SMITH, General Counsel, OGC
MICHELE YORKMAN, Director, IT

COMMISSIONER ASSISTANTS PRESENT:

ALEC DEULL
KENESHA GRANT
CARISSA MULDER
JUANA SILVERIO
ALISON SOMIN
KIMBERLY TOLHURST
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CHAIRMAN CASTRO: It is now 2:00. I am going to call the meeting to order. This is a business meeting of the U.S. Commission on Civil Rights. As I indicated, it’s 2:00 p.m. Eastern Time on March 14th. We are at the Commission’s headquarters, 1331 Pennsylvania Avenue, N.W., in Washington, D.C.

I’m Marty Castro, the Chair. Commissioners who are present here in the meeting with me are Commissioner Heriot, Commissioner Achtenberg, and Commissioner Kladney. Commissioners Yaki and Kirsanow are joining us by phone. Is the court reporter present? He’s nodding yes. Is the Staff Director present?

STAFF DIRECTOR SALLO: Present.

CHAIRMAN CASTRO: Okay, so we have a quorum. The meeting will now come to order.

The first item is the Approval of the Agenda.

I. APPROVAL OF AGENDA

CHAIRMAN CASTRO: So, I will move that we approve the agenda. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN CASTRO: Are there any amendments to the agenda? Madam Staff Director?
STAFF DIRECTOR SALLO: Yes, I do have one amendment.

CHAIRMAN CASTRO: Okay.

STAFF DIRECTOR SALLO: Chairman Castro, at this point in time I would like to make a motion to remove the Hawaii SAC Slate from the agenda for today.

CHAIRMAN CASTRO: Okay. Is there a second?

COMMISSIONER KLADNEY: Second.

CHAIRMAN CASTRO: Okay. Any other amendments? Hearing none we’ll vote to approve the agenda. All those in favor say aye.

(Chorus of ayes.)

CHAIRMAN CASTRO: Any opposed? Any abstentions? Okay, the motion passes unanimously.

CHAIRMAN CASTRO: So, the first item up on our agenda is Program Planning Update and Discussion of Projects.

II. PROGRAM PLANNING UPDATE AND DISCUSSION OF PROJECTS

CHAIRMAN CASTRO: We have three agenda items under that today. The first is a discussion and vote on two proposed letters that I circulated in advance of the meeting. One would request that the President and Congress respectively make a national holiday for Cesar Chavez, and also a day of
Commemoration Day of Service. And a second letter on Fred Korematsu who I’m sure you’re all familiar with was involved in the litigation in the Supreme Court over Japanese-American Internment during World War II, requesting the same holiday, as well as commemoration for his service in the civil rights arena.

So, what I would like to do is take each of those letters individually. So, what I will do, first of all, is move that we -- and this will be for --

(Pause.)

CHAIRMAN CASTRO: The mic went off? That we approve -- I’ll make a motion that we approve as a Commission the copy of the letter that was circulated to each of you to the President and Congress on behalf of the making of the national holiday for Cesar Chavez, along with a National Day of Service. Is there a second to that?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: Do we have any discussion or any proposed changes that folks want to make to that? All right, hearing none --

COMMISSIONER KIRSANOW: Mr. Chairman.

CHAIRMAN CASTRO: Okay. Go ahead, Commissioner Kirsanow. Please, go ahead.

COMMISSIONER KIRSANOW: Yes, I’m going to
vote against the motion, and I just want to make a quick statement as to why.

CHAIRMAN CASTRO: Sure, go ahead.

COMMISSIONER KIRSANOW: It has nothing to do with the merits of Mr. Chavez, or in the subsequent vote on Mr. Korematsu. It has to do with the fact that I oppose any national holidays at all. We’ve got national holidays up the wazoo. Each national holiday take money out of people’s pockets, it hurts the economy, and I don’t think we need any more national holidays. We’ve consolidated some national holidays. And although I do believe that honoring these individuals is something that should be done, it shouldn’t be done by virtue of a national holiday.

There are number of individuals who are equally meritorious of a national holiday, anyone from Frederick Douglass to Rosa Parks, to you name it, Homer Plessy, James Meredith, Roger Williams, Harriet Tubman, so I don’t know at what point we draw the line.

CHAIRMAN CASTRO: Thank you, Commissioner Kirsanow. Commissioner Heriot wanted to make a statement.

COMMISSIONER HERIOT: I believe that these two individuals are, indeed, worthy of an honor. I think there are lots of other people who are also worthy of
an honor. My personal favorite if there’s ever going
to be another national holiday would be Norman Borlaug,
but I am willing to vote against that one, too. So, I
would vote against giving them a holiday.

CHAIRMAN CASTRO: Okay, who’s squiggling
around in their chair? They maybe want to mute it on
the phone. Thank you. Any other comments, questions
from any other Commissioners?

COMMISSIONER YAKI: I --

CHAIRMAN CASTRO: Commissioner Yaki.

COMMISSIONER YAKI: We’re dealing just now
with the Cesar Chavez letter.

CHAIRMAN CASTRO: Yes, exactly. I thought
I would take them each individually in the event people
had different views or comments on each letter.

COMMISSIONER YAKI: Okay, no problem. I
just wanted to comment on Commissioner Kirsanow, and
just say that we -- I knew that there’s more than a
passing resemblance in his balding head to the Grinch.

CHAIRMAN CASTRO: Well, now, now no need for
that, but --

COMMISSIONER YAKI: I think he might like
that --

COMMISSIONER KIRSANOW: Commissioner Yaki,
really, either Darth Vader or Klingon.
(Laughter.)

COMMISSIONER YAKI: You never know what species the Grinch started off as, Commissioner Kirsanow. That’s all I can say.

CHAIRMAN CASTRO: Okay.

COMMISSIONER KIRSANOW: Granted.

CHAIRMAN CASTRO: Thank you, Commissioners.

COMMISSIONER KIRSANOW: Point taken.

CHAIRMAN CASTRO: Thank you, both. Anything else? Yes, there’s a transcript of this, so at some point some civil rights scholar is going to be Googling Grinch and this transcript is going to come up.

But, anyway, so hearing no additional comments, I’m going to call the question on the Cesar Chavez letter. I will take a roll call vote, so Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No. But, again, I do believe these individuals have done good things.

CHAIRMAN CASTRO: Understood and appreciate it. 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, so the letter passes.

Now on to the next letter, I will make a motion for discussion purposes that the Commission issue a letter to the President and Congress requesting that they make January 30th National Fred Korematsu Day, and also declare it a National Day of Service. Do I have a second?

COMMISSIONER YAKI: Second.

CHAIRMAN CASTRO: Now, I had circulated a draft letter to everyone. There was one minor change that I made to that. I think you should have all gotten a copy. I removed a reference to a blog post which I just thought is kind of out of place with the other types of recognitions that we were outlining. But other than that, the letter remains the same as circulated before. Discussion?

COMMISSIONER YAKI: Yes. Commissioner...
CHAIRMAN CASTRO: Yes, Commissioner Yaki.

COMMISSIONER YAKI: Mr. Chairman, yes, two things. One, I want to say something on the merits, but first on the technicalities of the letter. I made revisions but I’m afraid that they arrived a little bit too late --

CHAIRMAN CASTRO: Oh.

COMMISSIONER YAKI: -- to clean up a little bit of the inconsistencies in the language --

CHAIRMAN CASTRO: Okay.

COMMISSIONER YAKI: -- with regard to the description of the town, and also to take reference to my mom. So, I think you might -- if we could approve this with --

CHAIRMAN CASTRO: Yes.

COMMISSIONER YAKI: -- leave to make minor technical corrections, I would like to make that motion because it just --

CHAIRMAN CASTRO: Yes, you’re right. There was -- yes, we’ll circulate the correct version because I did see those changes, and for some reason I think the copy that we all have doesn’t have the changes in it.

COMMISSIONER YAKI: No, no. No problem at
all.

CHAIRMAN CASTRO: Yes.

COMMISSIONER YAKI: Secondly --

CHAIRMAN CASTRO: Yes.

COMMISSIONER YAKI: -- I just want to say that I ran this by the Japanese-American Citizens League who is very appreciative of this effort, and just from my own point of view having had the privilege of meeting Fred Korematsu in the latter years of his life, it’s -- we are -- I agree with Commissioner Kirsanow in terms of the names of the individuals that he has spoken about, but in terms of if you can find someone who had a significant impact on a single discrete community, notwithstanding the fact that his efforts have ratifications far beyond that. But in terms of the Japanese-American -- indeed, the Asian American community whose isolation, persecution and treatment certainly in the country, and certainly in California in the first half of the 20th century where they passed laws denying the ability of Asian Americans to own land to stop them from being farmers when they could not own property. It’s the first case to talk -- to decide the Equal Protection clause in America was because of an anti-Chinese ordinance passed by, of all people, the Board of Supervisors of San Francisco in the 1800s. Fred
Korematsu stands as a giant among all these for a very simple, as you described it, and we describe in our letter, Mr. Chairman, very simple act of courage and civil disobedience in saying I don’t -- I am a loyal American. I have no idea why I should be -- I and my family and my friends should be shipped off to converted horse stables which is what they were in California, horse racing facility the Japanese-Americans were basically housed in the horse stables before they were transited out to different parts of the country. And he said, you know, I am an American, I’m going to act like an American. I want to be treated like an American.

And I would just note as a matter of constitutional jurisprudence that notwithstanding the fact that Writ of Coram Nobis taken by a group of young dynamic Japanese-American and Asian American attorneys led by my friends, Dale Minamis, Karen Kai, and so many others, had finally forced the government to admit that they, indeed, not only had no evidence that there was a Japanese fifth column on the West coast, but to the contrary they found affirmative findings that there were none, and it was a very loyal and patriotic community. Notwithstanding that in one of the most shameful decisions by Earl Warren and by President Franklin D. Roosevelt, over 100,000 Japanese American
men, women, and children were sent into isolation in internment camps supposedly for their own protection, except for the fact that the machine guns were all pointed on the inside, not on the outside. And Fred Korematsu said this is wrong. What is -- I -- and he stood as a symbol of civil disobedience and courage for all members of the Japanese-American community, for sure.

And I would just like to say that one of the great stains on the Constitution, constitutional law of which there are, unfortunately, several, Plessy being one of them. Korematsu, notwithstanding the fact that his conviction, personal conviction was overturned, the decision, Korematsu v. United States still remains, unfortunately, the law, part of the constitutional jurisprudence of this country. And I would just say that during the constitutional arguments over the detention center in Guantanamo, in one of the briefs used by the then Solicitor General of the United States, Korematsu was cited for the purpose of justifying the detention center at Gitmo. So, while Fred Korematsu was personally vindicated and stands as a shining example of courage and civil disobedience and principle, the decision itself still remains, and hopefully will become a footnote and never be used
again. But the mere fact that it is there to justify
the incarceration of people deemed to be enemies of the
State even if they are citizens is a -- should be a
sobering warning to all of us who care about, are
concerned about civil rights and civil liberties. But
in that vein, again, Mr. Chairman, thank you for your
leadership, and I hope this -- the President takes
positive action on this and on the Cesar Chavez
resolution that this Commission will be forwarding.

CHAIRMAN CASTRO: Thank you, Commissioner
Yaki.

COMMISSIONER YAKI: Thank you.

CHAIRMAN CASTRO: Actually, I’ve been
informed by Special Assistant that the copy of the
letter that was circulated this morning to everybody
is the correct version with your corrections. I think
perhaps maybe it might not have been emailed to you,
but your corrections were made on the draft.

COMMISSIONER YAKI: Oh, thank you.

CHAIRMAN CASTRO: So, with that I would
-- are there other questions or comments on this? If
not, I will call this vote for question, call this
question for vote.

COMMISSIONER KIRSANOW: Mr. Chairman.

CHAIRMAN CASTRO: Yes, Commissioner
Kirsanow, go ahead.

COMMISSIONER KIRSANOW: Thank you, Mr. Chair. Perhaps for only the second or third time in the last eight years, I’d like to align myself with the bulk of what Commissioner Yaki had to say, but I think he said it very well, articulately, and in an impassioned fashion. And I, as I said before, would oppose a national holiday but would support some meaningful commemoration of Mr. Korematsu.

It was a significant act on his part. I think that there’s insufficient attention, and I have said so a number of times to the manifold and long-time acts of discrimination against Asian Americans. And I don’t like using that term because I think it’s somewhat ham-handed, but a lot of racists like to seem to lump people into a particular category, and that’s the category very often that they like to lump them into, but they’ve discriminated against Asian Americans since the outset of our country. So, as someone who also has had family members in detention camps and brutalized therein, including my own father, but in a nation where you might expect it, this is something that is of great importance. I just do not think it should a national holiday.

CHAIRMAN CASTRO: Thank you, Commissioner.
Any other comments? If not, I’m going to call the motion for vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

COMMISSIONER HERIOT: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: For the same reason I voted no on the other motion, I vote no on this one.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADEY: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

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

Now we’ll move on to the next topic on the agenda which is discussion of the scheduling of our Stand Your Ground briefing. I’ll turn that over to the Staff Director.

STAFF DIRECTOR SALLO: Thank you. At the present time we have the Stand Your Ground scheduled for April 11th, and we have the Sexual Harassment
briefing scheduled in May, so I wanted to advise the Commissioners that as we move forward in trying to assess potential locations to hold the Stand Your Ground briefing, and we reached out to potential speakers and researchers, it came to our attention that the main speakers that we were interested in inviting, the main researchers were not available on April 11th. As it turns out, the National Action Network is having a week-long briefing, not briefing, conference in New York City the week that we were scheduled to have our Stand Your Ground briefing, and one of the topics they’re going to be addressing at their conference is stand your ground in New York City. So, the main folks that we would have loved to have had at our meeting will not be available on April 11th, so that is why that was put on the agenda. And then the next question was if we move the Stand Your Ground, should we also move the Sexual Harassment? And in discussing it with Commissioner Heriot, she was amenable to possibly pushing it forward, if necessary.

CHAIRMAN CASTRO: So, do you have a particular proposal in terms of --

STAFF DIRECTOR SALLO: The thought had been to reschedule the Stand Your Ground for May, and then do the Sexual Harassment in July.
CHAIRMAN CASTRO: Okay. And folks know from email that I issued previous to this meeting that we are going to do the Stand Your Ground briefing in Florida.

STAFF DIRECTOR SALLO: Yes, but then there’s a catch.

CHAIRMAN CASTRO: There’s always a catch.

STAFF DIRECTOR SALLO: Yes. So, as it turns out the Friday that we could have it in May in Florida, we wanted some gentlemen to be present from the State legislature, and it turns out that it’s the Young State Representative Conference or something that same week, so they can’t be present. And then Ilya has indicated he’s not available April or May either, so that’s where we stand right now. So, I’m -- obviously, this is Commissioner Yaki’s concept paper, and he, obviously, would have a voice in this, but I’m amenable to whatever the Commissioners feel is best to accommodate. But definitely April 11th won’t work because even the researchers that we needed to be present at the briefing are not available in the month of April.

CHAIRMAN CASTRO: Commissioner Yaki, can you give us your thoughts?

COMMISSIONER YAKI: Yes, I am in no hurry to get this -- to do this if it means -- if it’s at the
cost of giving the witnesses amenable locations, et cetera. So, I would just simply say that I’d like to make a motion to, again, give the Staff Director and the Chairman hopefully in consultation with me the discretion to set an appropriate date that works within our schedule and everyone else’s schedule, instead of trying to find a date and then revisit this again if we have to play around with it. So, I would just say I think I’d like to move that we give the authority to the Staff Director and the Chairman to determine the appropriate date and time in Florida for the Stand Your Ground briefing.

CHAIRMAN CASTRO: Is there a second to that? Okay, discussion on that motion, folks? This is as it relates to Stand Your Ground.

COMMISSIONER KLASTNEY: Mr. Chairman.

CHAIRMAN CASTRO: Yes. Hold on, hold on. Commissioner Achtenberg, then Commissioner Heriot, then Commissioner Kladney. Okay.

COMMISSIONER ACHTENBERG: All I would ask is that individual calendars be taken into account because it’s -- and we try to accommodate -- find a date that all Commissioners can be accommodated.

CHAIRMAN CASTRO: Right. I know some folks will be out of the country.
COMMISSIONER ACHTENBERG: Yes, because I mean, this is a real problem for us now that the State legislatures --

COMMISSIONER YAKI: Okay. I agree. I agree.

CHAIRMAN CASTRO: Yes. Madam Staff Director, do you have a response real quick?

STAFF DIRECTOR SALLO: Well, no, I have a question really. So, normally I would just go along with the preset Commission meetings, so are we saying that we’re leaving it open to even change the date outside of a preset Commission meeting?

CHAIRMAN CASTRO: No, that’s not how I view that.

STAFF DIRECTOR SALLO: Okay.

COMMISSIONER ACHTENBERG: No. All I’m saying is by changing it from April to May some of us weren’t able to be present in May. I prefer that you not choose a time --

STAFF DIRECTOR SALLO: So if you just send me your availability then I can work around that.

COMMISSIONER ACHTENBERG: Yes, perfect, great. That would be great.

CHAIRMAN CASTRO: Commissioner Heriot, then Commissioner Kladney.

COMMISSIONER HERIOT: I’m just -- I’m
confused at this point. We’re still working with the
days that have been designated as meeting days.

  CHAIRMAN CASTRO: Correct.

  COMMISSIONER HERIOT: Okay.

  CHAIRMAN CASTRO: Commissioner Kladney.

  COMMISSIONER KLADENY: My only thing is the
same thing as Commissioner Achtenberg. I was thinking
that next month we were going to have that hearing, so
I made myself available, and then I made plans for some
other time.

  CHAIRMAN CASTRO: We understand.

  COMMISSIONER KLADENY: So, I will provide
my dates to the Director.

  CHAIRMAN CASTRO: Okay. Any other
discussion on that motion? Hearing none then we’ll take
a vote on that. 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: Yes.

Chairman Castro: And I vote yes, so it’s unanimous.

The next motion, we need to make a motion on your briefing. We wanted to move that to July. Right? We need a motion on that, do we? Is that right? Yes, we do.

Commissioner Heriot: Do you want me to make it?

Chairman Castro: Yes, why don’t you.

Commissioner Heriot: I’m happy to make it, although I’d be happy to hold it in May, as well. I move that we move the briefing on Sexual Harassment to --

Staff Director Sallo: We can do it in July.

Commissioner Heriot: -- July.

Chairman Castro: Okay. Is there a second?

Commissioner Kirsanow: Second.

Chairman Castro: All right. So, any discussion on that? Commissioner Achtenberg?

Commissioner Achtenberg: Is there a reason not May?

Chairman Castro: Yes, because
Commissioner Kladney doesn’t want it. Any other questions or discussion? If not, I’ll call the question on moving the briefing to July. 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 KLASDEY: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: And I vote yes, so that passes unanimously. Okay. So, I believe that’s that for that topic. We next move on to discussion and a vote on issuing a report based on the 2012 State Immigration Enforcement briefing that we held in August of 2012 in Alabama.

And the reason that I felt that we should just issue the transcript a few months ago, or last year
was that -- and as I stated on the record, comprehensive immigration reform was coming up for consideration in the Congress, and we wanted -- I wanted to make sure that we had the benefit of sharing the data and information that we gathered from all sides of that debate in Alabama on our website so that policymakers and advocates, et cetera, who had an interest in the civil rights implications of these issues would have access to that.

As we’ve seen over the last months, the prospect of CIR seems less likely every day. My concern is that should immigration reform in some format not pass, and I think we see this already beginning to happen in some states, a resurgence of the state enforcement type of actions focused on undocumented immigrants because there is a lack of federal action, I think the data that we collected again on both sides of the issue which is out there should be turned into a report. And knowing that it’s going to take some time to issue that report, I want to begin that process now so that we can actually benefit from the work that was done by this Commission and contribute to the public policy debate which will be continuing both at the state and I believe at the federal level. So, that is why I’m bringing this to you all for a vote. So, is there --
guess I’ll make that my motion. Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: Any discussion?

COMMISSIONER KIRSANOW: Yes, Mr. Chair, Kirsanow here.

CHAIRMAN CASTRO: Go ahead.

COMMISSIONER KIRSANOW: I would oppose this because we voted unanimously a year ago at a business meeting to post the transcript in lieu of a report. And that was done not because we couldn’t prepare a report in time for any debate. We see that the debate has gone on for quite some time, whenever you have a one part of Congress controlled by one party and another by another party, there is going to be protracted debate on almost everything including what to have for lunch.

We voted unanimously pursuant to an agreement that was struck between Commissioner Gaziano and the Chair. The prelude to such agreement was that Commissioner Gaziano would assist in securing a balanced panel of witnesses, because there were a number of witnesses who were reluctant to appear for a variety of reasons. And those witnesses appeared at the instance of Commissioner Gaziano provided they wouldn’t be defamed or slandered, and had Commissioner Gaziano I know, and Commissioner Heriot, myself and
Vice Chair not cooperate in that agreement, there would be no quorum for the briefing, there would have been no report and no briefing on immigration back in August of 2013, or 2012. Yet, the briefing went forward. The witnesses nonetheless several of them were defamed as racists, xenophobes, likened to the Klan, and when a vote on the matter came up last March, four Commissioners were opposed to it, Gaziano, Heriot, Kirsanow, and Vice Chair Thernstrom. But, nonetheless, Commissioner Gaziano maybe out of who knows why, but he participated in trying to resolve this by agreeing to post the transcript instead of a report, and that was in exchange for addressing certain personnel issues. Now Gaziano and Thernstrom are not here, but nonetheless I think we should stick by the previous vote. It was an understanding as to why that vote went forward. And I know you’ve got the votes to go forward with this if you want to, but if any media make any reference to the report without noting how it came to be it will be woefully complicit promoting the continued defamation of these witnesses, and I will make sure at least in my capacity to correct the record every single chance I get.

CHAIRMAN CASTRO: Thank you, Commissioner Kirsanow. First of all, as I indicated to you in our
email exchange of last night, I think there’s a lot of inaccuracies in that statement which I know you base it on correspondence that you received from former Commissioner Gaziano. And it seems that former Commissioner Gaziano and I, in our conversations would routinely seem to misunderstand one another. And I think you’re mixing two different issues.

There was a dispute that developed between myself and Commissioner Gaziano after he and I worked together to provide what we believed was a balanced panel. His perspective was that it should have been a one-to-one balance. My view was that it should be balanced as we look at everything else. It doesn’t have to be one-to-one. And there was a dispute about my having added a speaker from the Southern Poverty Law Center.

There was no discussion at that time whatsoever about the issue of a transcript versus a report. That issue did not come up until much later. And there certainly was no specific agreement between myself and Commissioner Gaziano for any vote in exchange for anything else. In fact, I very clearly told him that he could vote however he wanted on other issues.

I’ve explained to you why I was motivated
to move this as a transcript. I know you’ve indicated in your email to me that Commissioner Gaziano felt that the transcript, the hearing itself was inappropriate. If that was the case, why do we even put the transcript up on the website.

There was no defamation that occurred. We had our OGC look at that issue left and right. The statements that were drafted that were of some concern, the written statements that were drafted by some of the witnesses that were of some concern to Commissioner Gaziano were redrafted by those witnesses. They did not publish those statements. And, in fact, as we were voting to put the transcript up we made sure that that was not included. So, there is no defamation at all in that transcript. That transcript has passed muster in terms of being appropriate. And it was always my understanding, perhaps not his, but it was always my understanding that this issue could be revisited again. And I am revisiting it, for the reasons I’ve stated.

COMMISSIONER KIRSANOW: Mr. Chair, I have no objection to revisiting the issue in a new briefing. If you want to have another briefing, fine. I don’t have any objections to that. But with respect to this particular briefing and any report that therefrom, we’ve had a vote on this. There is an understanding that
wasn’t just the understanding of Commissioner Gaziano. I was present throughout everything other than your private conversations with him, and I had a distinct understanding as to why it is we posted a transcript as opposed to having a report.

And I know this, I would not have participated in the Alabama briefing, physically participated unless I had an understanding that a number of the witnesses who were concerned about how they were going to be portrayed would be treated in a proper fashion. That would have deprived the Commission of a quorum because I know -- I don’t want to speak for anyone else, but I had discussions with Vice Chair Thernstrom, Commissioners Gaziano and Heriot, they would not have appeared for such a briefing, and nothing would have gone forward. That was the prelude to it. And then my understanding as to why I voted to post the transcript was the same as expressed by Commissioner Gaziano in his email.

CHAIRMAN CASTRO: Again, you know, that may be his point of view that he conveyed to you, but that is not how it transpired, so you’ve made your statement. You’re also going to have a chance once this is drafted to take a look at it and vote up or down, or recommend changes to the draft report. This is not approving a
report in absentia. This is voting to have our career staff begin to prepare a report which will be subject to all the bells and whistles that every single one of our reports are subject to in terms of content, defamation, et cetera, and we’ll still have a right to vote on it. So, any other comments or questions? Hearing none I will call the question for a vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I vote no.

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?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: And I vote yes, the motion passes 4-2. Thank you.

The next item on the agenda is Management and Operations.
III. MANAGEMENT AND OPERATIONS

CHAIRMAN CASTRO: Madam Staff Director.

STAFF DIRECTOR SALLO: Thank you, Chairman Castro. I will give a very brief update. First of all, I wanted to welcome two interns that we have with us today. We have a new intern in ERO. He just started today, as a matter of fact, so his name is Ryan Cowdin, and he’s a 1L at G.W. here in D.C., and he’s from Virginia, Northern Virginia. And then today is Nicholas Ginsberg’s last day, and he is an intern who’s only been with us for one week, that’s it. We only get them for one week, and he’s from Carbondale High School in Illinois. He’s a senior, and he’s going to be starting at Vassar in August, so I’d like to say it’s been a pleasure having Nicholas here with us, and I welcome Ryan as he commences his internship today.

CHAIRMAN CASTRO: Thank you for your work, and thank you in advance for the work you’re going to do. Appreciate it. In fact, would you like to draft a briefing report on immigration?

(Laughter.)

STAFF DIRECTOR SALLO: I also wanted to advise everyone, as you know the IG is no longer assigned to the Commission, so they will not be issuing a report. I did circle back with them. They will be
completing whatever investigations they had outstanding, and they were given $70,000 out of this year’s budget to complete that. We will, however, have GAO come in to take a look at us, and they will be looking at three specific items. So, they plan on looking at the Commission’s roles and responsibilities, organizational structure, staffing, and the number of Commission products issued since 2009. They’re also going to follow-up on how well the Commission has implemented GAO’s prior recommendations. And, finally, they will be looking at the role of the State Advisory Committees in accomplishing the mission of the Commission, so I will be their point person, and I will be providing them with any and all documents that they wish to review. And they will probably be here for about three months once -- and I don’t know yet when they’re going to come in, but it will be as soon as possible.

Finally, I have some good news. As you know, we just finished a CFC campaign, so I wanted to --

CHAIRMAN CASTRO: Remind folks what CFC means.

STAFF DIRECTOR SALLO: Thank you, Combined Federal Campaign. So, as you know, folks donated and this is something that happens federal-wide, and we
received three awards. That’s the bottom line. So, this year the National Capital Region fell short of its goal. Right? So, the region itself is short, but the Commission smashed the goal and then some, so we received the highest award. We actually received the President’s award signed by President Obama.

(Applause.)

STAFF DIRECTOR SALLO: So, I am very happy about that, so it’s awarded to agencies reporting 75 percent employee participation or $275 per capita gifts. We exceeded both. We had almost 90 percent participation and 486 for our per capita gift amounts.

Secondly, we received a Summit award, so here’s the Summit award, so I’m very happy about that.

(Applause.)

STAFF DIRECTOR SALLO: And it’s given to agencies that achieve a 3 percent increase in total dollars raised over the previous year’s campaign. Our Commission had an almost 50 percent increase in total dollars raised. We also increased the participation from last year’s campaign earning the Participation Achievement award.

(Applause.)

STAFF DIRECTOR SALLO: And this is given to departments or agencies that achieve a 2 percent
increase in the preceding year. We actually doubled participation from last year. So, first and foremost, I’d like to thank each and every person that donated towards the campaign. Obviously, we couldn’t have done it without you. And I’d also like to thank Barbara and Yasmin for being our wonderful leaders, and they did a phenomenal tape, little short video/stand up comedy tape which was submitted, as well, to CFC, and it’s my understanding that it will probably uploaded on their website. So, I’d like to thank each and every one of you.

(Applause.)

CHAIRMAN CASTRO: Thank you.

STAFF DIRECTOR SALLO: And that is about it.

CHAIRMAN CASTRO: Can I ask our Ethics Officer, are we allowed to accept these? They look valuable.

STAFF DIRECTOR SALLO: Yes.

COMMISSIONER KLANDNEY: Where are you going to post them?

STAFF DIRECTOR SALLO: So, Pam and I have discussed posting this at the entrance so that everyone can see that we got the President’s award.

CHAIRMAN CASTRO: Yes, great. All right.

STAFF DIRECTOR SALLO: So, not bad for my
first year as Staff Director.

CHAIRMAN CASTRO: No.

(Simultaneous speech and laughter.)

STAFF DIRECTOR SALLO: I’m trying my best here. You get one win.

CHAIRMAN CASTRO: All right. Anything else, Madam Staff Director?

STAFF DIRECTOR SALLO: No, this is all.

Thank you.

CHAIRMAN CASTRO: Any questions for her from anybody? No? Okay, we’ll move on to the last item which is our State Advisory Committee appointments.

IV. APPROVAL OF STATE ADVISORY COMMITTEE SLATES

CHAIRMAN CASTRO: So, we will turn to, let’s see, Alabama is up first. So, I will make a motion to -- I am nominating a motion that the Commission appoint the following individuals to the Alabama Committee based upon the recommendation of our Staff Director; Valerie Askew, Mark Ayers, David Beito, Lula Bridges, Richard Finley, Stephen Gordon, Laid Javier-Ferrell, Randy Kelley, Raphael Maharaj, Kevin Newsom, Isabel Rubio, Maurice Shevin, L’Tryce Slade, Edward Still, and Alice Westery.

Pursuant to this motion, the Commission
appoints David Beito as Chair of the Alabama 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. Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: Okay. Any discussion? Hearing none I’ll call it for a vote. 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 KLASTEY: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: And I vote yes, so the slate passes unanimously.
I am now going to make a motion that the Commission appoint the following individuals to the District of Columbia State Advisory Committee based upon the recommendation of our Staff Director: Farah S. Abbas, Nadia Jahan Fiorizv, Leila J. Levy, Melissa C. Tucker, Yisel Vales, Csheena Wadhawan, James J. Sandman, Sonia P. Gutierrez, Clyde J. Hart, Vernon Dexter Ingram II, Daniel P. Lips, Charles R. Lowery, Jr., Alan K. Palmer, Laurence D. Pearl, Edison G. Peterman, and Steven J. Wagner.

Pursuant to this motion, the Commission appoints -- who are we appointing Chair?

(Off microphone comment.)

CHAIRMAN CASTRO: Okay, James J. Sandman as Chairman of the District of Columbia 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. Is there a second? Any discussion, questions? Commissioner Heriot?

COMMISSIONER HERIOT: I don’t think this SAC is balanced properly so I plan to vote no.

CHAIRMAN CASTRO: Any other questions, comments? Hearing none I’ll call it for a vote.
Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Not having had an opportunity to review the qualifications of the slate, I will abstain.

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

COMMISSIONER HERIOT: I vote no.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLANDNEY: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: And I vote yes, so it passes with four yeses, one no, and one abstention.

I now make a motion that the Commission appoint the following individuals to the Washington State Advisory Committee based upon the recommendation of our Staff Director, Rita Zawaideh, Joel B. Ard, Tony R. Benegas, Robin R. Boehler, Duane M. French, Dan Goldhaber, Paul W. Guppy, Roxanne Husmann, Laurie D. McCubbin, David Nice, Diana Perez, Henry A. Yates, and
Karen L. Yoshitomi.

Pursuant to this motion, the Commission appoints Rita Zawaideh as Chair of the Washington 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. Is there a second?

COMMISSIONER KLASDNEY: Second.

CHAIRMAN CASTRO: Okay. Any discussion, questions? Hearing none I’ll call it for a vote. 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 KLASDNEY: Yes.

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

CHAIRMAN CASTRO: And I vote yes. The slate passes unanimously.

I now make a motion that the Commission appoint the following individuals to the Nevada State Advisory Committee based upon the recommendation of our Staff Director, Bob Beers, Wendell C. Blaylock, Carol Del Carlo, Debra A. Feemster, David S. Fott, Belen P. Gabato, Kara M. Jenkins, Kay P. Kindred, Theresa E. Navarro, Matthew D. Saltzman, Angela D. Taylor, and Michael V. Zieba.

Pursuant to this motion, the Commission appoints Michael V. Zieba as Chair of the Nevada 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. Is there a second?

COMMISSIONER KLADNEY: Second.

CHAIRMAN CASTRO: Okay, any discussion, any questions? It sounds like one of our Commissioners on the phone took a cartoon fall out there. Is everybody okay?

(Laughter.)
COMMISSIONER KIRSANOW: It wasn't Kirsanow.

CHAIRMAN CASTRO: Okay. Well, we’ll take a vote and find out. So, Commissioner Kirsanow, how do you vote on this slate?

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 KLABNEY: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Help me.

(Laughter.)

CHAIRMAN CASTRO: Is that a yes?

COMMISSIONER YAKI: Yes.

CHAIRMAN CASTRO: And I vote yes, the slate passes unanimously. That concludes our business.

V. ADJOURN MEETING

CHAIRMAN CASTRO: With nothing further, I
will move to adjourn the meeting. Is there a second?

COMMISSIONER Kladney: Second.

CHAIRMAN CASTRO: All those in favor say aye.

(Chorus of ayes.)

CHAIRMAN CASTRO: All right. The meeting has adjourned at 2:44 Eastern Time. Thank you, everybody.

(Whereupon, the proceedings went off the record at 2:45 p.m.)