The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C., at 9:30 a.m., Martin R. Castro, Chairman, presiding.

PRESENT:

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

MARLENE SALLO, Staff Director
JENNIFER CRON HEPLER, Parliamentarian
STAFF PRESENT:
MARGARET BUTLER, Acting Chief, OCRE
LATRICE FOSHEE
BARBARA DE LA VIEZ
PAMELA DUNSTON, Chief, ASCD
ALFREDA GREENE
YASMIN ELHADY
TINALOUISE MARTIN, Director, OM
HOPE LOVETT
MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:
ALEC DEULL
TIM FAY
KENEISHA GRANT
JOHN MARTIN
CARISSA MULDER
JUANA SILVERIO
ALISON SOMIN
KIMBERLY TOLHURST

OCRE INTERN PRESENT:
RICHARD AHNE

OGC INTERNS PRESENT:
REZIYA BRUMFIELD
KRISTIN STITCHER
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P R O C E E D I N G S

9:32 a.m.

CHAIRMAN CASTRO: The meeting will come to order. This is a meeting of the U.S. Commission on Civil Rights. It is currently 9:32 a.m. on November 15th, 2013. Our meeting is taking place at our headquarters, 1331 Pennsylvania Avenue, N.W. in Washington, D.C.

I'm Chairman, Marty Castro. The Commissioners who are present at the meeting with me are Vice Chair Thernstrom, Commissioner Gaziano, Commissioner Heriot, Commissioner Achtenberg, Commissioner Yaki, Commissioner Kirsanow, and Commissioner Kladney.

A quorum of the Commission is present.

Is the court reporter present?

COURT REPORTER: Yes.

CHAIRMAN CASTRO: Is the Staff Director present?

STAFF DIRECTOR SALLO: Yes.

I. APPROVAL OF AGENDA

CHAIRMAN CASTRO: Okay. So, the first item is that I move the agenda be approved. Is there a second?

(Moved and seconded.)
CHAIRMAN CASTRO: Are there any amendments?

VICE CHAIR THERNSTROM: Mr. Chairman, I'd like to --

CHAIRMAN CASTRO: You have to turn your mic on.

VICE CHAIR THERNSTROM: Sorry about that.

CHAIRMAN CASTRO: I'm going to give you an opportunity speak. We don't need to amend the agenda for that.

VICE CHAIR THERNSTROM: No? Okay. But I move to amend the agenda as follows, move the following Program Planning -- I'm sorry. Move the following Program Planning items to the top of the Program Planning section of the agenda. One, discussion and vote on the 2014 Statutory Enforcement Report topic. Two, Discussion and to schedule two briefings for 2014, the Statutory Enforcement Report topic, and Enforcing the Americans with Disabilities Act Online. And, lastly, Discussion and Vote on the Civil Rights Effect of Regulatory and Other Barriers to Small Business. So, this is just a shuffling of putting these things at the top of the Program Planning section.

CHAIRMAN CASTRO: Do we have a second on
that?

COMMISSIONER GAZIANO: I'll second.

CHAIRMAN CASTRO: Okay. Any discussion needed on that?

STAFF DIRECTOR SALLO: If I may, Chair?

CHAIRMAN CASTRO: Yes.

STAFF DIRECTOR SALLO: Are we proposing to move everything before or after the training because the training is mandatory for the Commissioners and the Special Assistants.

CHAIRMAN CASTRO: Could we do that right after the --

STAFF DIRECTOR SALLO: After.

CHAIRMAN CASTRO: After the training.

STAFF DIRECTOR SALLO: Thank you.

CHAIRMAN CASTRO: Any further discussion on that?

(No response.)

CHAIRMAN CASTRO: Hearing none. So, I'd like to move to approve the agenda with the amendments.

(Moved and seconded.)

CHAIRMAN CASTRO: Okay. All those in favor say aye.

(Chorus of ayes.)

So, before we actually get into the formal agenda there's a couple of things I'd like to say and to allow others to say. First of all, I'm really pleased you've been hearing these pings, a number of pings going on our phone call with folks who can listen in on our meeting via telephone. And most of those folks, about 26 or 27 of them are members of our State Advisory Committees, and so I want to commend the Staff Director and the Regional Directors for insuring that our SAC members know the time, and the date, and the way to call in on these meetings so they can listen in and hear what we're doing, and participate via at least telephone. Although they don't have the ability to interact with us, they do have the ability to hear firsthand what's going on, so I think that's a welcome move in the right direction for further engagement with our SACs.

So, for those SAC members on the phone I just want to, on behalf of the Commission thank you all for your continuing service and for being on the call with us today.

Some of you know, the next topic, that
each Commissioner has a term of six years. Some
Commissioners serve again after reappointment, but
this year we have several of our Commissioners whose
terms are expiring at various times in December. And
so, for some of our Commissioners this will be their
last meeting. I know it will be a last meeting for
our Vice Chair, and possibly Commissioner Heriot and
Commissioner Kirsanow. Commissioner Gaziano, his term
does not expire until after our December meeting so
presumably he'll join us then.

So, having said that, I want to afford
the opportunity to some of our colleagues to say a
few words and I'll start with our Vice Chair. Madam
Vice Chair, you have the floor.

VICE CHAIR THERNSTROM: Thank you very
much, Mr. Chairman.

Well, it's hard for me to believe that
I've been on the Commission since January 2001, and
some would say she's been there too long, and I would
agree. It is time for me to, with some regret, to
leave. I've grown old in the years I've been on the
Commission, and I sometimes think maybe I can blame
the Commission for that, but I think not.

I want to say a few words about my
colleagues. First, I want to thank Marty Castro for
his graciousness towards me even though, of course, we disagree politically. But he has been very gracious, and I've been very appreciative of that.

I've had disagreements across the aisle with most members of the Commission, but I leave with high respect for everyone here. And I look forward to the work, the important work that the Commission will be doing in the coming months and years. And I will certainly follow it with great interest.

And, finally, I need to thank Tim Fay who has been indispensable to me. He's a friend but by now, but he is also someone I have the highest regard for intellectually. Frankly, if I could get him on the Commission as a Commissioner I would do so believing he belongs on it. But I've been completely dependent on his wisdom, his good humor, his friendship. And I think not only I, but the Commission as a whole has greatly benefitted from his presence.

I have spent my professional life around very smart people, in general, but Tim ranks among those I've known, ranks high up on the list. And so, the thing I will perhaps miss the most is my relationship with Tim.

And with that I bid farewell. I'm
slightly, physically under the weather so I don't know how long I will stay at the meeting, but I will stay as long as I can. And, again, thanks to everybody for being colleagues for whom I have the utmost respect.

CHAIRMAN CASTRO: Thank you, Madam Vice Chair. Before I respond, I want to know if any of the Commissioners would like to say a few words so we could allow that time, as well.

COMMISSIONER KIRSANOW: Thanks, Mr. Chairman. I came on the Commission just a few months after Abby did, and had the pleasure of working together with her and valued her friendship and her wisdom, and taught me a great deal about civil rights, in general. Of course, she is a national scholar of the first order. She has written perhaps some, if not the definitive texts with respect to Voting Rights and, of course, the iconic "American Black and White," along with Steven, and so it's been my privilege to serve with her.

It's been my privilege to serve with everybody on this Commission and all those that I've served with in the past despite our sometimes acerbic disagreements, some of which was probably at my instance. But, nonetheless, it's been great, but
especially with respect to the 12 years I've had the pleasure of serving with Abby. So, thanks very much, Abby.

VICE CHAIR THERNSTROM: Pete, thank you very much. And I was trying to figure out last night how long the two of us have been together, but --

COMMISSIONER KIRSANOW: Yes, nearly 12 years.

VICE CHAIR THERNSTROM: Yes, but I feel the same about you. It's been a great privilege, and you're a very special person. And I feel -- I hope we won't lose touch.

CHAIRMAN CASTRO: Commissioner Heriot.

COMMISSIONER HERIOT: I don't do goodbyes all that well, but it has been very much a pleasure serving on the Commission. I've enjoyed everyone that I've worked with. I think we've turned out some good work, and I know that the Commission will continue to turn out good work. And thanks to everyone.

COMMISSIONER GAZIANO: I thought people's terms were expiring after mine, so I'm not prepared, but I'll have to -- so very uncharacteristically -- very uncharacter, but I will be missing some Commissioners at a minimum. Two of us may possibly be among those who are reappointed, but
I didn't realize this would be the last meeting. Maybe I will try to collect some thoughts and mention them, but I do want to thank everyone, and thank particularly those who are cycling off. Uncharacteristically said I'll be brief, but I can say to all of you, I kind of knew from the first few months before many of you joined us that it would be a great challenge and learning experience. And I have another professional -- I made a comment to one or two of you. It's good to learn new subject areas, new skills, but I think what I have valued the most is the attention and difficulty in serving in a collegial way, on a collegial body where you disagree. And we had some rough periods, particularly as new people cycle on and off the Commission. But I'm pleased that we were able to kind of figure each other out, figure out how to do the business of the Commission. But I also -- I will try to maybe collect my thoughts a little better.

I wanted to thank our excellent staff and, of course, I can praise John Martin, and I should praise John Martin individually, but I want to thank all of the Commission's Special Assistants and the professional staff, as well, for making the Commission run.
CHAIRMAN CASTRO: Well, Madam Vice Chair, I want to thank you and echo your comments about me back to you. It's been a gracious partnership. Being Chair is a difficult job, but having you as my Vice Chair has made it easier. While we are of different political philosophies, I think we clearly share the love of this Commission and its mission, and on many occasion it was that joint mission that allowed us to overcome many challenges that were facing us and resolve them in a way that allowed bipartisanship to actually happen here at the Commission while down the road a bit it wasn't happening. And I appreciate that.

You have been a great source of advice and guidance to me as I took on this role, and I will always appreciate that, and will always consider you a friend, so even though you won't be here at our meetings, I know that you will be here in spirit, and I will hopefully be able to still call upon you from time to time to provide me with additional advice and guidance as we move forward. So, it has been a pleasure.

VICE CHAIR THERNSTROM: And it will be my pleasure to hear from you any time.

CHAIRMAN CASTRO: Thank you. Commissioner
Kirsanow, I knew at our first meeting that we were kindred spirits when you kept referring to yourself as a Klingon, and as a Star Trek and sci-fi fan.

COMMISSIONER KIRSANOW: But I actually resemble one.

CHAIRMAN CASTRO: I didn't want to say that, but you said it.

(Laughter.)

CHAIRMAN CASTRO: And so, while we don't agree on a lot of the issues, I think that we were able to develop a working relationship that was based on mutual respect and allowed us to really be able to move the Commission forward on important issues.

In that first meeting that we had when you all were considering whether or not to support me, the President's appointment of me as Chairman, I know we all sat down and I told that while we may not agree on the issues, I would always work to make sure that we could work in a professional manner to address all the issues that everyone wanted addressed. And I think we did that, and it was in large measure due to the leadership that you also provided in your caucus on that, and I appreciate it.

Commissioner Heriot, we've come to work very closely together over the last three years. You
have been a point person for me in understanding the
needs of your caucus as we try to figure out how we
can move important topics forward. You have also
been -- I consider you a friend. You are concerned
about issues beyond just the issue at hand on
everything from whether I have the right kind of
office.

(Laughter.)

COMMISSIONER HERIOT: I still think you
need a window office.

CHAIRMAN CASTRO: So, you've been very
thoughtful to me, and I know that when there are
times when we are having difficulty reaching a
consensus, I know that I can always go to you and we
can thoughtfully consider how to move forward. So, I
hope that you come back, but I know at this point we
don't know whether you all are going to be back with
us. But if this is indeed farewell, it's only a brief
farewell because we hope to stay in touch.

Todd, I know I get a chance to say
goodbye probably in December, but I just want to tell
you now that it's been fun working with you. I know
we've talked about a lot of issues behind closed
doors, and I know that while publicly we may be apart
on a lot issues, I think when we're behind closed
doors there's a lot more commonality than folks realized, and I know that you work very hard to insure that your point of view is presented, and by the same token, at least in your interactions with me, you've been very gracious, and thoughtful, and professional. And I've enjoyed hearing your stories and I hope to continue to hear them beyond your service here on the Commission.

COMMISSIONER GAZIANO: Thank you, Mr. Chairman.

CHAIRMAN CASTRO: So, I don't know if any other Commissioners want to chime in. Commissioner Yaki?

COMMISSIONER YAKI: Thank you very much, Mr. Chair. And having served the longest with some of the folks who are cycling off, I wanted to say a few words. One, for Abby who I've considered over these past 8 years a dear friend. We do fight like cats and dogs on a lot of issues, but we can always at the end of the day laugh about it, and talk about things of commonality. We both know we care about these issues. Sometimes you care about them in different ways, but it doesn't mean that we don't come from a good heart. And as an individual, I've never met someone who is as intellectually deep and as personally warm as
Commissioner Thernstrom, so I want to thank you for your friendship over the years.

Commissioner Kirsanow and I have had some well documented battles over the years, mainly because we're both -- well, I mean; he's a Klingon so -- and I'm a Federation guy. It just doesn't work out sometimes.

(Laughter.)

COMMISSIONER YAKI: But I've always admired his professionalism, his -- I'll never forget the time that he would come to the Commission with these binders on Supreme Court nominees that were about 5,000 pages long and he's start leafing through them and talking about well, I think -- amazing. And there's a great depth and warmth there, as well, that sometimes we don't see, but I see it even when we're busy trying to punch each other. So, in your native language I would say majQa' which means well done in Klingon. And thank you for everything.

And for Todd and Gail, I'm going to reserve comments because you could be back. And I know that when I had my quote, unquote" last meeting" in 2010, I actually thought I'd be back at the next meeting, and then something got all held up in the gummy works. But, briefly, it's been a pleasure, and
I hope to see you again in about three weeks.

VICE CHAIR THERNSTROM: Michael, I want to thank you personally for those warm words. It was a surprise to me that we became the friends that we did, but it's been wonderful. And I -- you know, you and I share -- we don't share the same views on civil rights issues but we share a certain style that we have appreciated in each other. And that's off to you in life. I hope, you know, the future brings whatever you want it to bring. And I will miss you.

CHAIRMAN CASTRO: Commissioner Achtenberg or Commissioner Kladney, anything you'd like to add.

COMMISSIONER KLABE: I would just join in everyone's remarks. I just can't say how much I've learned in the last three years, and I'm sure I'll learn more. Thank you. Thank you very much to you, too, Abby.

CHAIRMAN CASTRO: Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Just thank you very much.

CHAIRMAN CASTRO: Okay. Well, actually, we have a little something for you all. Hopefully, nobody is allergic to sweets because we have a little thank you cake here for our outgoing Commissioners.
COMMISSIONER YAKI: It was a two-tier cake before the sequestration and then--

CHAIRMAN CASTRO: Yes. So, while we move on --

VICE CHAIR THERNSTROM: This is an "Oh, my God moment." You've actually bought a cake.

COMMISSIONER YAKI: Sequestration took it down to one tier.

CHAIRMAN CASTRO: We'll do it at -- when we take a break we can go up there and grab some cake. Okay?

VICE CHAIR THERNSTROM: That's lovely, Marty.

CHAIRMAN CASTRO: So, we're now moving on to our Program Planning updates and discussion of projects.

II. PROGRAM PLANNING UPDATES

CHAIRMAN CASTRO: So, the first item on the agenda -- actually, we have two reports from our General Counsel's office. The first is from Yasmin Elhady who's going to talk to us about the annual giving. It's hard to believe it's that time of year already. It seems like it was just a couple of months ago.

MS. ELHADY: Good morning, Commissioners.
CHAIRMAN CASTRO: Good morning.

MS. ELHADY: Always lovely to see all of you, full house, incredible.

I would like to present to you the idea of CFC and the giving campaign, again. This year marks a very important year because the entire CFC NCA program has raised over $60 million last year, one of its highest numbers ever. And this year marks an important year because so many people could be cycling off, so we want to make sure that if you have the opportunity to give, that you give now, hopefully, before you go.

This is a very important time of the year, as well. A lot of people really are in need. Our deadline this year will be actually extended to January 15th of 2014, so you can give until January 15th, 2014.

You have over 4,000 charities to choose from. What's wonderful is that your dollars, your funding helps really make the impossible possible. You make it possible. That's the theme of this year, and we hope that each of you will go to CFCNCA.org and check out the charities for yourself. You can also come to my office or to Barbara de La Vez' office and get a paper catalogue with a listing of
all of the charities, if you prefer paper. I also have paper pledge forms for anyone who would like to pledge in paper. But of course, you can go online, as well.

I'm happy to answer any of your questions now or offline, since I know you have a meeting to get along with. And I appreciate your time. I hope that you give.

CHAIRMAN CASTRO: I'm sorry; I do have a quick question.

MS. ELHADY: Yes?

CHAIRMAN CASTRO: So, I'm on the Board of the Chicago Community Trust and they will match certain gifts, so how -- is there some process in there for that?

MS. ELHADY: For matching?

CHAIRMAN CASTRO: Yes.

MS. ELHADY: We can talk about that.

CHAIRMAN CASTRO: Okay.

MS. ELHADY: Yes.

CHAIRMAN CASTRO: And I know last year we had a goal that you wanted us to exceed, and I think we exceeded it.

MS. ELHADY: Yes. Every year now for the past decade we've reached or exceeded our goal. And
last year we exceeded it guys, so I really need your help.

CHAIRMAN CASTRO: What's our goal this year?

MS. ELHADY: Five-thousand dollars.

CHAIRMAN CASTRO: Okay.

MS. ELHADY: Yes, and I think we can make it.

CHAIRMAN CASTRO: Thank you.

MS. ELHADY: Thank you so much. Bye.

CHAIRMAN CASTRO: All right. Now, I'd like to have --

COMMISSIONER HERIOT: Can I ask a question?

CHAIRMAN CASTRO: Yes, go right ahead.

COMMISSIONER HERIOT: If I logon will it tell me what I'm already doing because some of the charities I give to are small, and if I were to adjust the amount they would say “why doesn't Gail like us any more” if I went down.

MS. ELHADY: Oh, I see what you're saying.

COMMISSIONER HERIOT: So, I don't want to do something like that. Will I be able to tell what I did last year when I logon?
MS. ELHADY: No, unfortunately.

COMMISSIONER HERIOT: Okay.

MS. ELHADY: Yes.

COMMISSIONER HERIOT: That's all I had.

MS. ELHADY: Sorry.

CHAIRMAN CASTRO: All right, thank you.

Ms. Hepler, you have an Ethics Training for us?

III. OFFICE OF GENERAL COUNSEL

ETHICS TRAINING

MS. HEPLER: I have some signature sheets in here.

CHAIRMAN CASTRO: Okay.

MS. HEPLER: And these are a little different --

MS. DUNSTON: Excuse me, Jennifer. Excuse me, you all. We have people on the telephone, and if you don't use your microphones they will not be able to hear you.

CHAIRMAN CASTRO: Okay, thank you.

MS. HEPLER: Okay. I'm going to pass out some sheets. I want you to sign them to show you're here today. But also I have email addresses and phone numbers for the departing people. And for the people who are staying here, I still would like your personal email address when I have questions to
direct to you, and if you're not here. And so, I'm going to pass them around. If your email address or your phone number that's listed is wrong, please correct it while you're looking at it. Thank you.

Okay, good morning. This may be the last time I address some of you, and you're probably clapping up and down with joy. And for others, you'll be hearing more ethics in the future.

Today's topic is Expiration of Appointments and Applicable Ethics Rules for Departing Commissioners and Special Assistants. And for those who are staying, there's some information, too. So, this will count towards your annual ethics training requirement, and this is the last training for 2013.

The agenda is we're going to talk about ethics authorities, and then expiration of terms, financial disclosure requirements. Yes, you have to file another one even if you're leaving; seeking employment, and post-employment, and other topics.

Okay. And the first one, and I'm going to send this to all of you, is the ethics authorities and links. And we're undergoing an Office of Government Ethics Review, and they want people to have access to all the ethics rules and laws, so in
the future I'm including this slide, as well as this one. So, if you want the exact provisions you can find them, or come to me.

Seeking ethics advice. And I want to explain the Safe Harbor provisions, and this is for current -- people are staying and leaving. If you come to see me before you take action and I give advice, even though it may be wrong, I try, but then you will not be administratively liable. And that's why I say come to me and talk before you do it. If you disclose all the facts and I give you advice, even if I do something wrong, you don't have to worry, unless it's criminal. Now, there was a case at DOI where they went to the ethics person, did not tell all the facts, got an okay, and then it turned out it was criminal, and they used the ethic officer's advice against the person because he did not disclose all. Okay, go to the next one. That's Department of Interior.

And I always remain a representative of the federal government. That's what I want you to know. There is no attorney/client privilege as came out in that case definitely. And there's no Safe Harbor for criminal provisions. I mean, I'm not going to tell you to steal and it's okay, let's be honest.
Okay?

And now we're going to the big topic, expiration of Commissioner terms. And, as you know, four of you Presidential, four of you Congressional. And there's -- and I want to say first that I had two of my interns help with this presentation, and one is here, Reziya Brumfield, and the other one is Kristin Stitcher, and she has a paid internship on Friday, so she's not here, but they helped me with this.

No more than four from one political party, and you know they're six-year terms, and you can only be removed for neglect of duty. And, obviously, a felony. Okay.

And there is a case on this interpretation, United States v. Wilson. And the court -- was that you? That was you?

COMMISSIONER KLADNEY: No, I'm not Wilson.


COMMISSIONER GAZIANO: He was a party.

MS. HEPLER: He was a -- okay.

VICE CHAIR THERNSTROM: It was memorable.

MS. HEPLER: It was memorable.
VICE CHAIR THERNSTROM: The litigation, yes.

MS. HEPLER: Oh, okay. Well, you've been there. And it creates -- the statute creates fixed six-year terms of office that run with the calendar instead of the person in order to preserve staggered six-year terms. And there's the cite. And, obviously, some of us are very familiar with the case then. Okay.

And, also, the court held that the calculation of the fixed term is anchored by the term of each member of the Commission and the initial membership. For example, if someone only served -- if they were appointed the first time and then it goes on from that day, and if someone serves a partial term then the next Commissioner gets the rest of that term. And I think Commissioner Kladney's in that situation when someone else started your term and you’re coming in. You can to that end of that term.

VICE CHAIR THERNSTROM: And when I arrived I was finishing somebody's term.

MS. HEPLER: You did that also. Okay, where you finished and it ends on a fixed date, and we'll go to that the next slide.

These are the dates for each one's term
ending, and it is based on the prior one up there, the person who had it. So, your term is with your end date there. And four are this year, and four are in 2016. Okay?

And the next question --

COMMISSIONER YAKI: I was the last holdout in 2016. I just want --

MS. HEPLER: What? Okay. The expiration of the Special Assistant's terms, because each of you has a Special Assistant. And each of you hold what's called a Schedule C appointment, and you work directly for a Presidential or Congressional appointee. You have a confidential or policy-determining relationship with your supervisor, who is the Commissioner. And you have a confidential relationship that implies knowledge and support of the goals, viewpoints, and philosophies of the supervisor. And that's all the Special Assistants. Okay.

And the rules are when a supervisor leaves, then the confidential Schedule C relationship ends, so either the Special Assistant would resign, or the agency can involuntary separate the Schedule C at the same time, or soon thereafter. And this is from the Guide to Schedule C positions, and if you
have any questions go to HR, because this is their area. Okay?

Now, as I said before, you still have to file that financial disclosure form when you're leaving. And you have to file a termination one, and if you do it on line, I will send -- I'm going to send you, if you let me know if you want it in paper or not, I will send you the form, the right form.

You have to file on or before the 30th day after you leave government service, and you can get a 45-day filing extension again. Okay. Must pay a $200 late filing fee for any form that is filed more than 30 days late. And it isn't on there, I had something -- also, if you fail to file, it's referred to Department of Justice, and you owe up to $50,000, so if you are thinking of not filing, I don't recommend it.

COMMISSIONER GAZIANO: Can we ask a couple of questions about this subject, or do you want us to hold our questions to the end?

MS. HEPLER: Can you wait until I get through the financial disclosure requirements and then you can ask me the questions?

COMMISSIONER GAZIANO: Okay, sure.

MS. HEPLER: Okay. Let's go to the next
one. Okay. And this goes to the electronic filing versus the other -- the paper filing. And as you know, and especially if you want to file paper do it before the end of this year. As of next year, you're going to be required to do it on line.

Also, I recommend, because there have been people that have left, Special Assistants, before that if you're using the online system, we can set it up so you can access it afterward, but I suggest for all of you that you click it the day you leave if you're doing it online, because you're not supposed to do it before you leave within 30 days, but if you click it the day you leave and say submit, that'll take care of your filing. And that's why I asked for the personal information; if I have any questions, I can contact you after you leave.

Also, I may have to set it up, the system, to put in your personal email to contact you because, obviously, your regular email, government email will be shut off. Okay? I think there's one more. Is there one more? Let's see. I think that was the filing, if you want to file paper or not. Okay. Go ahead.

COMMISSIONER GAZIANO: There's a couple of questions I may ask later, but if we're one of the
people who will be reappointed but there's a gap, I assume there's no need to -- there may be a situation where like Commissioner Yaki, it was unclear, and it was 30 -- anyway.

MS. HEPLER: You're going to have to file a termination, unfortunately, and then file a new one when there's a gap like that.

COMMISSIONER GAZIANO: What if there is --

COMMISSIONER YAKI: That's what I did.

COMMISSIONER GAZIANO: But how could you do any work after you're not a Commissioner because that's forbidden by law, anyway? Those are some of the little things that we can get --

MS. HEPLER: Well, that's why I'm saying -- a good thing -- if you get it ready and you can submit it on your last day. That's what I always advise people.

COMMISSIONER GAZIANO: We'll probably work through some of those issues, I suppose, as they get a little clearer. But it seems to me there's a couple of things that -- for those who might be continuing, you wouldn't need to file one. Right?

MS. HEPLER: No, you still need to because technically your term ends. If you're
reappointed before the term ends then you're continuing and there's no termination.

COMMISSIONER GAZIANO: Okay.

MS. HEPLER: But once it terminates and you're off, then that's a termination. Even if you come back only two weeks later. I know it sounds bizarre, but that's how it works.

COMMISSIONER GAZIANO: Okay.

COMMISSIONER YAKI: But isn't that -- a question. Isn't that a contradiction to the fixed term requirement, because if it's meant to run as a fixed term, how can you be reappointed before your term actually expires, because it's supposed to run --

MS. HEPLER: I don't know -- I just -- I don't know how the term appointments work because I haven't dealt with that. I'm from the ethics area. If you terminate, then you have to file a termination. If you come back --

COMMISSIONER YAKI: I seem to recall that if -- back in the time period that I was dealing with, the -- my term expired I think December 12th or something, December -- I don't know what the heck it -- I think December 15th. And even though I was submitted in November to be reappointed for that
time, it didn't go through. One of the thoughts was that, nevertheless, even though I continue, that first term did expire and, therefore, a new term began and someone determined at that time that I would have to file anyway because the term expired because we are dealing with fixed terms.

MS. HEPLER: Yes, you're right. You're dealing with fixed terms.

COMMISSIONER YAKI: Yes.

MS. HEPLER: I didn't think -- where I was before, in that case one of the Commissioner's terms expired and the President appointed her a two-year -- gave her a two-year extension so she didn't have to, but you're right.

COMMISSIONER YAKI: Right.

MS. HEPLER: Yes, the term does end on a fixed date. Right. But if you have more questions, you know, we can talk offline about it. Okay, let's go.

That's just asking you for your contact information, and I pass the sheets around. Okay?

And seeking employment, and most of the Commissioners that's not an issue because most of you have full-time or outside jobs and work. This is more aimed at the Special Assistants. If you are looking
for employment, you're disqualified from working on matters with a potential employer that may affect your financial interest, or that employer's, and you have to look to see if there's a conflict of interest or apparent conflict. And if there is, you have to recuse yourself.

With these -- I'm going through seeking employment and post-employment. And these specifically, come to see me if you have questions because they're going to be very general and broad, but we can go into it more in detail individually.

And when you say seeking employment, it's when you're talking to the person. Let's say the employer has contacted you about possible employment and you say I'm interested. You contact the potential employer, or you're engaged in actual negotiations for employment, which brings up another topic. Okay.

Oh, this is one other thing. Interview expenses, it's very interesting. If you get -- you can accept gifts of meals, lodging, transportation, and other benefits if they're flying you out for interviews. It's a little exception to the Gifts Rule. Okay.

And we're going back to the stock acts, remember the stock acts. If you are in negotiations,
then you have to file a notification statement within three business days after commencing employment negotiations. Let's say you get the interview and then they say we're interesting in hiring you, and you start discussing salary. At that time the three days would start. If you're just submitting a resume and you haven't heard back, then you don't need to file the notification statement. And there's the form, and I will send it out to everybody so they have it to fill it out. And when past Special Assistants have left, they have filled out the form when they have employment out there.

Okay, post-employment. And there's a couple of bans that are interesting. One is a full-time lifetime ban, and I don't think it will really apply to any of you. But it is something that you've worked on personally and substantially as a government employee and there's a -- the United States is a party and the direct and substantial interest in the matter. And we handle more general things, but if you have any questions come see me. That's more if you worked on something specific, and it later comes back, contract, grant, something like that. But if you have anything let me know, and we can discuss it one on one. Okay?
This is an interesting one I wasn't aware of because I hadn't dealt with Commissioners who were Special Government Employees, but it turns out that this does apply to you.

There's a one-year cooling off period for Commissioners from representing another before the former agency to seek official action. If you notice I said another because most of -- when you come to talk, you would represent yourself. If you said you're representing some organization or something then there would be an issue, but if you come up as a panelist and say these are my views, that's perfectly acceptable.

If you have any questions please see me, because this one actually is a criminal violation. And it came up -- and this was sort of an example. One time there was a high-level doctor at HHS where I worked, and she retired, and we didn't even know -- talk about file a termination, because she came back working for herself as a consultant and her email address was the same, so we didn't get the form. We didn't know she had left. And then it turned out the IRS was coming and saying well, you're not paying her benefits or the taxes so you have to get someone to be a contractor. So, then we had -- there
was a service, and she worked for them. Well, it
turned out that was another because she was working
for a contracting service, so that was actually
criminal. She wasn't charged, but you can't do that.
Okay.

And there's also something, this applies
to the Special Assistants only. If you recall there
was the Ethics Pledge, and there's a lobbying ban in
it. And if you talk to -- are interested in working
for a lobbying organization of some sort, please come
see me and we'll discuss the specific provision and
its applicability to you. Okay?

Now, we're going to get to the other
applicability of the Standards of Conduct, and these
contain the basic obligations of public service. And
they do not apply to you once you leave, of course.
There is no retroactive or past requirements. And
that's the CFR section, again.

Okay. As you recall, and this is for the
current and staying Commissioners, too. You can use
your official title position for a non-governmental
teaching, speaking, or writing, as long as it's
listed as one but several biographical details while
engaged in teaching, speaking, or writing as an
outside employment or an outside activity. Okay.
And we have -- Commissioner Thernstrom is our poster child on this one. And she --

(Off microphone comment.)

MS. HEPLER: What? And I want to show this is her current, and she has -- as you can see, there are several items there. She's the Vice Chair, U.S. Commission on Civil Rights, you know, what she's done. She's got a lot of things on her bio, as well as a nice picture.

VICE CHAIR THERNSTROM: A very old picture, I must say.

CHAIRMAN CASTRO: A similar bio of mine, you indicated not to make my Commission title so prominent, so I kind of put it in the middle of stuff, or in the back. So, if you lead off with your Commission title, is that making it too prominent?

MS. HEPLER: Well, we can -- you know, we'll talk about that. If you have it in there, you know, among -- she has it among many things. I think you do, too. I don't remember. I remember I've worked on your bio. I have to look at it again to see.

CHAIRMAN CASTRO: Yes.

MS. HEPLER: I know --

CHAIRMAN CASTRO: Yes, it was up front, but then they put it --
MS. HEPLER: Put it sort of not in the -- okay. We'll talk about it.

CHAIRMAN CASTRO: Okay.

MS. HEPLER: Okay. And then this one here, she can say she's the former Vice Chair of the U.S. Commission on Civil Rights. It doesn't need anything else. Likewise, if you're writing an article or a blog, you can say former, you know, if you want. It's up to you whether or not you want to put it in there. You don't have to put any disclaimers or anything anymore because you're not a federal government employee. Okay. And the same for the Special Assistants, you can say you're a former Special Assistant.

And now we're getting to non-public information and government records. Non-public information includes but not limited to information that's exempt from disclosure under the Freedom of Information Act, information the agency has designated as confidential, information that has not actually been disseminated to the general public and is not authorized to be made available to the -- that is the old one. The new one didn't get up there, public upon request. I'm sorry; I don't know one would end up there. Okay.
Examples are subpoenaed documents. If we subpoena something and don't use it, you can't -- it's not open to the public to view. Privacy protected information, comments from the public, employee and state advisory members, personal telephone numbers and address, Social Security numbers, those sort of things. Okay?

And here are some things -- and now we're also going to federal records. And federal records include organizations, functions, policies, decisions, procedures, and operations, or other information that contain information about you. And examples are -- go back one.

I know what happened. This is when the computer went down and it didn't save all the changes, I'm sorry. It's paper files, electronic files, images, video and audio recording, websites, social media. We don't have that. We have website, databases, shared file drives, email, all that is government records under the Federal Records Act. Okay. And you're not supposed to remove the records from federal government custody without proper authorization. Okay.

And this is what I've done before. If you have any questions, please come see me and we'll
discuss whether or not these can go, or you can take them with you, or that they should stay here.

Extra copies of records, you know, that are not privacy protected you could take, or non-work, other work-related materials, non-record materials. For example, if you print out copies of cases or CFRs, you can take those. Documentary material that's purely personal, of course, your time, pay, leave, whatever. And then your personal matters include family and personal correspondence, materials documenting professional activities and outside business or political pursuits even though, you know, let's say you have something you're going to, some society meeting and you keep your schedule there, you can take that with you. You can take your personal stuff, but if it's agency stuff, be careful. Okay? Any questions?

Okay. I wish those of you who are not coming back the best in your future. Okay?

CHAIRMAN CASTRO: Okay. So, now we have a revised agenda, so we're going to move now to discussion and vote on the 2014 Statutory Enforcement Topic.

IV. PROGRAM PLANNING

2014 STATUTORY ENFORCEMENT REPORT TOPIC

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CHAIRMAN CASTRO: As you all recall -- I thought this was always going to stay on for me as Chairman, but I guess not. So, we're now going to discuss and vote on a replacement project for our 2014 Statutory Enforcement Report.

Those of you recall that after we voted on the drug policy concept paper, there were some concerns about whether or not it met with the requirement for a Statutory Enforcement Report. Those concerns were raised by our General Counsel's office. I know there had been a lot of back and forth between Commissioners and agency staff over that issue. There have been some informal discussions among Commissioners as to how to proceed.

We wanted to proceed quickly because we know we need to give our staff the time to really plan out the Statutory Enforcement Report. So, what we've decided to present to you this morning for consideration is a global motion that will address both the issue of the replacement of the Statutory Enforcement Report topic, as well as swapping out of a prior concept paper for a briefing that we had on the ADA and Online Accessibility with another concept paper from our Conservative colleagues. So, I will make a motion for discussion purposes and then we
will move forward.

So, I will move that we substitute the previously approved Drug Policy Concept Paper which was approved as our Statutory Enforcement Report topic, and replace that with a concept paper distributed by Commissioner Kladney on the issue of Patient Dumping. You all have that in your materials. And that would replace the Drug Policy Concept Paper as our 2014 Statutory Enforcement Topic.

And, in addition, that we would replace the ADA Online Accessibility Concept paper previously approved by the Commission as a briefing topic, and replace it with a topic presented by Commissioner Heriot on Sexual Harassment in Higher Education. And also she amended that to add K-12. So, that is the motion. Is there a second?

COMMISSIONER YAKI: Second.

CHAIRMAN CASTRO: Okay. Any discussion on that? Do you want to say something, Commissioner Heriot?

COMMISSIONER HERIOT: Yes, I just -

CHAIRMAN CASTRO: Make sure your mic is on, though.

COMMISSIONER HERIOT: I just wanted to say that on the issue of whether or not we have (a)
jurisdiction, and (b) whether it qualifies as a Statutory Enforcement Report, I'm confident that at least one of these reports that we're voting on will qualify, and so I can support it on that basis.

CHAIRMAN CASTRO: Okay. Any other comments or discussions? Where did Commissioner Gaziano go?

STAFF DIRECTOR SALLO: Chairman Castro, if I may?

CHAIRMAN CASTRO: Yes, Madam Staff Director.

STAFF DIRECTOR SALLO: If everyone would indulge me for a moment. I wanted to take an opportunity to thank staff because for the past three months they have worked very diligently on the current topics that we had before us. They have done extensive research. They have set forth a project outline, and they have also come out with a Statutory Report time line, so I did not want that to go unnoticed.

At this point in time, I would hope that as we move forward the topics that we have so extensively researched may be considered in the future and adopted as a potential briefing so that work does not go to waste.
Secondly, as it applies to the topic that Commissioner Heriot is bringing forth, is there a concept paper that perhaps staff could take a look at, because when I hear the title I get a little nervous that it's like all-encompassing, and it's going to be really vague. And so, I just want to make sure that we have something to go by, so that we could start taking a look at it.

COMMISSIONER HERIOT: We have a paragraph written on it, and we can easily expand that if you'd like us to.

STAFF DIRECTOR SALLO: Please, so that we -- I know we have the blurb, but I was wondering if anything else had been expanded.

COMMISSIONER HERIOT: We can do that for you.

STAFF DIRECTOR SALLO: Okay, thank you. So, I'm going to make a plug, and my plug is as we move forward to schedule the Statutory Enforcement Report, if we could possibly target February 14th, it really cuts the time extremely short for us to have the hearing on that day, but that is the only way that we can physically get the report out within our statutory mandate.

CHAIRMAN CASTRO: Yes. That's going to be
the next topic after we vote on this. So, first we
want to get the topics nailed down. Any other
questions, issues? If not, then I will take a roll
call vote. We had a second. Right? Yes.

So, Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: Yes. Okay. The
answer is yes.

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

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot,
how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Gaziano
has stepped out. Commissioner Achtenberg, how do you
vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how
do you vote?

COMMISSIONER YAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney,
how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: And I vote yes, so it
passes unanimously. Alright. Thank you, everybody,
really appreciate that.

IV. PROGRAM PLANNING

SCHEDULE TWO BRIEFINGS FOR 2014

THE STATUTORY ENFORCEMENT TOPIC and the
ENFORCING THE AMERICANS WITH
DISABILITIES ACT ONLINE.

CHAIRMAN CASTRO: The next item is to
set up a schedule for the briefing on that topic. The
concept paper, and I guess we should also set up a
briefing date for the sexual harassment paper. But
first let's deal with the Statutory Enforcement
Report.

I agree with Madam Staff Director that
the sooner we can do this the better. What -- if we
do this on February 14th, it would require that
Commissioners come into D.C. twice in February
because we currently have our meeting schedule for
December, I'm sorry, February 28th.

What I would like for us to consider is
possibly moving our meeting to the 14th, from the
28th to the 14th so that we can come in once, save
additional dollars in terms of having to fly back
twice. If need be, we could work a long day so we can
do any work that we need to do for our monthly
meeting, and then go into the briefing.
I don't know what people's schedules look like. I know some folks won't be here anymore so it doesn't matter.

VICE CHAIR THERNSTROM: I was going to say --

CHAIRMAN CASTRO: But those that anticipate that you might be back, you might want to check your schedule for February 14th so that we could make that a form of a motion if it works.

COMMISSIONER YAKI: I so move.

CHAIRMAN CASTRO: Second? Commissioner Heriot is looking at her calendar right now.

COMMISSIONER HERIOT: I'm still trying to figure out what month that --

CHAIRMAN CASTRO: It's February 2014. Okay?

COMMISSIONER YAKI: So, the motion would be to consolidate the meeting of the 28th with the hearing on the 14th?

CHAIRMAN CASTRO: Yes.

COMMISSIONER YAKI: On the date of the 14th.

CHAIRMAN CASTRO: Correct. And we'll try to have Valentine's Day cookies for you all.

COMMISSIONER YAKI: And my birthday is
the day after.

COMMISSIONER HERIOT: Valentine's Day.

COMMISSIONER YAKI: Not that anyone would --

CHAIRMAN CASTRO: We'll try to get you home in time for dinner, but I can't promise anything.

COMMISSIONER HERIOT: Mr. Chairman, I'm either not going to be on the Commission then or I will be available.

CHAIRMAN CASTRO: Okay. So, then we've got a motion that's been seconded.

COMMISSIONER KLANDNEY: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Kladney.

COMMISSIONER KLANDNEY: I believe a couple of us have spoken about having a business meeting on Thursday.

CHAIRMAN CASTRO: If we needed to, yes. If we think it's going to be --

COMMISSIONER KLANDNEY: Well, that should be part of the motion that maybe someone should have discretion to schedule that so that the staff would have direction on that.

CHAIRMAN CASTRO: Yes.
COMMISSIONER YAKI: Yes, I would like to amend the motion to give the Chairman and the Staff Director to put the business meeting on Thursday, the 13th in order to accommodate the briefing -- if needed, to accommodate the briefing on the 14th.

CHAIRMAN CASTRO: Okay. Is that all right with you folks? Okay. So, that is the motion then. I guess we'll take a roll call vote on that.

Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Abstain.

CHAIRMAN CASTRO: Okay.

VICE CHAIR THERNSTROM: I should have abstained, too.

COMMISSIONER YAKI: Abstain? Come on.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Well, I guess I should abstain, too, then.

CHAIRMAN CASTRO: Well, you might be here.

COMMISSIONER HERIOT: But -- I might vote yes then.
CHAIRMAN CASTRO: Okay. I'll take that as a yes. Commissioner Gaziano is still not back. Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner --

VICE CHAIR THERNSTROM: You could change mine to abstain.

CHAIRMAN CASTRO: Okay. Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: I vote yes. We'll change the Vice Chair's to abstain, so we have one, two, three, four, five yeses, two abstentions.

COMMISSIONER HERIOT: Can we change mine to abstain, because you don't need --

CHAIRMAN CASTRO: Okay. So, Commissioner Heriot has abstained. We still have a majority of yes, so we will move to consolidate the meeting to the 14th of February. Do we need to set anything else up? Oh, the briefing for the Sexual Harassment concept paper. Yes?

COMMISSIONER YAKI: And I want to -- I have something for that, as well.
CHAIRMAN CASTRO: For the Sexual Harassment?

COMMISSIONER YAKI: No, but another briefing date, as well.

CHAIRMAN CASTRO: Oh, for the Stand Your Ground.

COMMISSIONER YAKI: Right.

CHAIRMAN CASTRO: Yes, that's right. So, let's do this one and then we'll go to Stand Your Ground.

COMMISSIONER YAKI: Okay, thank you.

CHAIRMAN CASTRO: Okay? So, is there a particular time that you want to do the Sexual Harassment briefing?

STAFF DIRECTOR SALLO: May I inquire? It will be -- it will require data collection. Correct?

COMMISSIONER HERIOT: I would think that yes, we want to do the data collection first, so April sounds like the right time to me.

CHAIRMAN CASTRO: April was -- we're going to try to do -- we're going to make a proposal for Stand Your Ground to be in April?

COMMISSIONER YAKI: Right.

CHAIRMAN CASTRO: So, maybe --

COMMISSIONER HERIOT: Okay, how about
STAFF DIRECTOR SALLO: I would prefer a
little later to give staff ample time to --

COMMISSIONER HERIOT: The one thing is,
I'm confident that this report would be one that
would fit our definition of an Enforcement Report,
whether we call it that or not. There's no need to
call it that. So, I would like to have the report out
by the end of September.

COMMISSIONER YAKI: Assuming you're here.

COMMISSIONER HERIOT: Assuming -- well,
even if I'm not here, I would like that.

STAFF DIRECTOR SALLO: I can't make any
promises right now, but -- because we have the
Statutory Enforcement Report we also need to get out,
as well.

COMMISSIONER HERIOT: I know. I'm
sympathetic.

STAFF DIRECTOR SALLO: Okay, thank you.

COMMISSIONER HERIOT: A -- we will try I
think is the best we can do.

STAFF DIRECTOR SALLO: Okay, thank you.

CHAIRMAN CASTRO: So, is that May then?

COMMISSIONER HERIOT: May.

CHAIRMAN CASTRO: Okay. So, is there a
second on that?

    COMMISSIONER YAKI: Second on both the
dates.

    CHAIRMAN CASTRO: Let's do -- you want to
do them both at the same time?

    COMMISSIONER YAKI: Yes.

    CHAIRMAN CASTRO: Sure. So, I will move
that Stand Your Ground hearing occur in April.

    COMMISSIONER YAKI: Right.

    CHAIRMAN CASTRO: Do we have an issue as
to location that we need to discuss, or will that
be --

    COMMISSIONER YAKI: I think it will be at
the discretion of the Staff Director and the Chair in
terms of location at some point.

    CHAIRMAN CASTRO: Okay. So, that is the
motion to hold the Sexual Harassment briefing in May,
and the Stand Your Ground briefing in April at a
location at the discretion of the Chair and the Staff
Director. Is there a second on that motion?

    COMMISSIONER YAKI: Second.

    CHAIRMAN CASTRO: Any additional
discussion? If not, we'll take a vote.

    Madam Vice Chair, how do you vote?

    VICE CHAIR THERNSTROM: Yes.
CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Abstain.

VICE CHAIR THERNSTROM: I should have abstained, too. I don't know what I'm thinking.

CHAIRMAN CASTRO: You want to abstain?
Okay, abstain. Commissioner Kirsanow abstains.

Commissioner Heriot?

COMMISSIONER HERIOT: I think to be consistent I need to abstain, too.

CHAIRMAN CASTRO: Commissioner Gaziano?

COMMISSIONER GAZIANO: Why are we abstaining?

COMMISSIONER HERIOT: Because we might not be here.

COMMISSIONER GAZIANO: Can't you vote the -- I think it's one of these situations -- I vote aye.

COMMISSIONER HERIOT: Go for it, anyway.

COMMISSIONER GAZIANO: Because I think whether I'm on or off, we vote the best interests of the Commission, and hope if we're not replaced that people who replace us like it.

CHAIRMAN CASTRO: That's why I like you.

(Laughter.)
CHAIRMAN CASTRO: Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Okay. Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: And I vote yes, so the motion passes. We have three abstentions, and the balance are yeses.

IV. PROGRAM PLANNING

CIVIL RIGHTS EFFECTS OF REGULATORY AND OTHER BARRIERS TO SMALL BUSINESSES

CHAIRMAN CASTRO: Okay. So now, again, with the amended agenda we are going to move to the discussion and vote on the Civil Rights Effects of Regulatory and Other Barriers to Small Businesses. That's the briefing report that was previously circulated. Everyone, hopefully, had a chance to look at the revised version that was in your materials. Any motions? Do we have a motion, anybody? We need a motion.

(Off the record comments.)

CHAIRMAN CASTRO: Okay. I'm told that
there's some proposed edits that are pending, and
there's someone going to get the copies.

While we wait, I guess if anybody wants
to grab some cupcakes you might as well go for it.

(Whereupon, the proceedings in the
above-entitled matter went off the record at 10:32
a.m., and went back on the record at 10:34 a.m.)

CHAIRMAN CASTRO: All Commissioners got
their cupcakes, so I think we can -- and more
importantly, we have the revisions to the draft
report that have been circulated by Mr. Martin.
Right?

COMMISSIONER YAKI: Are we sure we want
to consider this after ingesting sugar? That's all I
want to know.

(Laughter.)

CHAIRMAN CASTRO: So, we are now on the
topic of the part A of the Civil Rights Effects of
Regulatory and Other Barriers to Small Business draft
report. And Special Assistant John Martin has
circulated to us a revision, I believe, to Footnote
17, so I don't know who wants to address this, or
make a motion, or take this issue up.

COMMISSIONER KIRSANOW: Mr. Chair, I
would move that Footnote 17 as described here as it
currently reads be changed to that second version there. I think it's a little bit more specific and accurate.

CHAIRMAN CASTRO: Do we have a second on that motion?

COMMISSIONER GAZIANO: I second.

CHAIRMAN CASTRO: Any additional discussion? No? All right, let's see. Let's take a vote on that then.

Madam Vice Chair, how do you vote on the amendment?

VICE CHAIR THERNSTROM: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote on the amendment to the draft?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote on the amendment to the draft?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Commissioner Gaziano, how do you vote on the amendment to the draft?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote on the amendment to the draft?

COMMISSIONER ACHTENBERG: I vote yes.
CHAIRMAN CASTRO: Commissioner Yaki, how do you vote on the amendment to the draft?

COMMISSIONER YAKI: No.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote on the amendment to the draft?

COMMISSIONER Kladney: No.

CHAIRMAN CASTRO: I vote no. It passes, one, two, three, four to three. Now, there needs to be a motion on the overall draft Part A. Is there a motion on that?

COMMISSIONER GAZIANO: I move that we adopt Part A.

CHAIRMAN CASTRO: As amended?

COMMISSIONER GAZIANO: As amended.

CHAIRMAN CASTRO: Is there a second?

VICE CHAIR THERNSTROM: Second.

CHAIRMAN CASTRO: Any discussion on that?

Okay.

Commissioner, I mean, sorry, Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: 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 Gaziano, how do you vote?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTRO: I vote no. Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: No.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: No.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: No.

CHAIRMAN CASTRO: Four to four, the motion fails.

COMMISSIONER HERIOT: Wait, but why?

What's the problem?

CHAIRMAN CASTRO: It didn't have enough votes.

COMMISSIONER HERIOT: I guess that's right.

COMMISSIONER GAZIANO: Are you asking why the --

COMMISSIONER HERIOT: Is there a
particular problem with the report? I thought it was kind of uncontroversial.

CHAIRMAN CASTRO: Well, you know, I guess everyone could chime in. I thought it was a little more one-sided than I expected it to be. The briefing I felt was -- and the concept paper was more focused on -- it should have been more focused on conditions of the minority businesses. And it really, to me, ended up being an effort to, in my opinion, a bit anti-minority owned business, anti-union, so I just didn't feel comfortable voting for it as drafted.

COMMISSIONER GAZIANO: What, what amendments could be made? I didn't read especially the anti-minority small business. I have to say, I'm kind of confused by that, or not confused, but --

CHAIRMAN CASTRO: Yes, I just think that --

COMMISSIONER GAZIANO: -- taken aback by that. But are there --

CHAIRMAN CASTRO: I would think --

COMMISSIONER GAZIANO: Are there suggestions, constructive suggestions that can be made from those who didn't vote to approve this, concrete suggestions, perhaps, that -- to put it in a form that you all might find acceptable?
CHAIRMAN CASTRO: You know, I did submit some changes to the Office of the Staff Director, but in all honesty I felt that I would have to rewrite the entire report in order to make it palatable to me. And I'm just speaking for myself. Other Commissioners can chime in, so absent a complete rewrite or reworking of the briefing -- report, I just didn't feel comfortable voting for it. That's not to say that maybe at some point in the future we can't take that data and rewrite it, but sitting here today, I think for me it would take more than some edits and some tweaks. Any other Commissioner want to add anything?

COMMISSIONER YAKI: Yes, Mr. Chair. This points out to me the continued problem with briefings in that they are ultimately limited by how the speakers are chosen, and what outside materials are actually provided at these very limited snapshots of an issue. And I would agree with you that if one were to look at this in a different way with different briefing witnesses, and different materials it might be one where we could do that, but that's not on the record before us. We have voted no. I think there's procedurally, there's really no more need for debate on it, and we should just simply move on.
VICE CHAIR THERNSTROM: Mr. Chairman?

CHAIRMAN CASTRO: Madam Vice Chair?

VICE CHAIR THERNSTROM: You said -- what were your exact words? I'm not sure but, in effect, it could be rewritten.

CHAIRMAN CASTRO: I would think it would substantially have to be rewritten. I, you know, can't sit here and tell you --

VICE CHAIR THERNSTROM: Right. But if you really think it could be rewritten to be acceptable to the majority of the Commissioners should we set a date for --

CHAIRMAN CASTRO: Well, you know, I don't know -- sure, that's a good question. I think that given the other reports that are still in the pipeline from this year's hearings, the reports that we've already approved today for 2014, I think those need to take precedence. Once staff gets through that, I think we'll have a few more new colleagues in a month or two who may want to have some briefing topics, that we'll have to see how we factor that into all of the existing requirements on our staff. But I'm not averse personally to looking at that again. That would, I think, take a vote of a majority of the Commission.
VICE CHAIR THERNSTROM: Do you think it's an unimportant topic?

CHAIRMAN CASTRO: No, I think it's important. That's why we held it. I just didn't feel that it was --

VICE CHAIR THERNSTROM: No, I'm just saying in terms of going forward.

CHAIRMAN CASTRO: No, I think it is important. Yes, and I think it didn't reflect, in my estimation, and then we will move on, the essence of what was in the original concept paper. Some of it was there, but I think we went a little far afield, and as drafted I can't support it. But it is an important topic, yes, I agree.

Okay, we've got a few more things on the agenda, and some of them I know will probably not pass, but we'll move ahead and do it anyway.

IV. PROGRAM PLANNING

PROPOSED EMINENT DOMAIN FINDINGS

AND RECOMMENDATIONS

CHAIRMAN CASTRO: I had circulated some proposed findings and recommendations for the Eminent Domain report, and there was an additional revision sent around yesterday because I didn't notice that I had failed to include the first part of that for Part
B. So, what I would like to do is for discussion purposes make a motion to approve the Part B that was circulated yesterday. Do I have a second? We've got a second from Commissioner Achtenberg. Any discussion on that? I believe everyone should have a copy of that.

COMMISSIONER HERIOT: Can we give me a chance to read this?

CHAIRMAN CASTRO: Sure, sure. It's basically a -- that's the one. It repeats what was in my statement, which I'm not sure you may have read anyway, but that statement was previously circulated. Let me know when you all are ready to discuss. And as you consider this, you really should not take into account that we got you some cupcakes.

(Laughter.)

COMMISSIONER HERIOT: Don't worry, we won't.

CHAIRMAN CASTRO: We are looking at Part B of the Eminent Domain Abuse report which is proposed findings -- a proposed finding and some proposed recommendations. The revised version was circulated last night. It adds recommendations 1 through 6, which were in my statement, but I neglected to have them put into my proposed Part B
recommendations.

Are folks ready? We could take these one by one, or do it en masse, however -- I mean we have technically a motion already on the floor for them in entirety, but I'm willing to put that motion aside and go one by one, if you'd like, or you may decide you don't even want to support any of these.

COMMISSIONER HERIOT: I think they're a package.

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: I'm happy to use whatever procedure you want, but I think they're a package.

CHAIRMAN CASTRO: Okay. We'll deal with them as a package then. So, we have a motion on the floor to approve these -- this one finding and seven proposed recommendations to the Civil Rights Implications of Eminent Domain Abuse. Any discussion? Commissioner Heriot?

COMMISSIONER HERIOT: I have a number of problems with this. One, like in seven, the suggestion that we want to standardize this, and it's a question of uniformity. I don't agree with that.

On number three, amending the Fair Housing Act to clarify that it applies to
condemnation of residences without regard to intent,
I'm not even sure what you mean by that, so I would
oppose the package on that basis.

Also, in number six, that there should
be an unbiased empirical study using rigorous social
science standards; since we're a Commission that's
supposed to conduct research like that it seems kind
of odd to be recommending that somebody else do it.

CHAIRMAN CASTRO: Yes, someone else who
has the resources.

COMMISSIONER HERIOT: Yes, but I'm sort
of embarrassed to make a recommendation like somebody
with the resources should do this, so I intend to
vote no on the package.

CHAIRMAN CASTRO: Okay. Commissioner
Gaziano?

COMMISSIONER GAZIANO: Yes, there's
several that I disagree with, and I don't think the
others really stand on their own. And there are none
that I'm -- so, I think it would -- I did look at
these before, so I know you -- since you provided
them before, I'm not saying you didn't provide them
with some time for us.

I think that I have a concern
with -- you know, residents often get -- don't have
some of the resources that commercial residents, but creating -- saying that some property owners have more taking rights than others is a little concerning to me. Again, I don't think there needs to be or should be uniformity in just compensation and takings laws, since states can provide more than the constitutional floor, and we like laboratories of democracy.

You know, I think part of the problem, of course, is that the -- it's really the Supreme Court that made the mistake in Kelo and Public Use. Again, local jurisdictions can and should do more than what the real meaning of the Constitution is that the Supreme Court abandoned. So, I'm -- for those reasons, I don't think that I can support these.

CHAIRMAN CASTRO: Okay, anybody else?

COMMISSIONER KIRSANOW: Yes, Mr. Chair.

CHAIRMAN CASTRO: Yes?

(Off microphone comments.)

CHAIRMAN CASTRO: You need to turn your mic on.

COMMISSIONER KIRSANOW: I'd align my comments with those of Commissioners Gaziano and Heriot. I don't think that there should be, unless
individual states decide to come up with a different formula, a distinction, or I don't see really the reason for a distinction at this point between certain types of property owners, commercial versus resident.

In addition to which, the second proposed recommendation, I think I understand the impetus behind it, but then, again, tenants are not owners of the property, and I am not sure that they would be entitled to compensation. And beyond that, as I said, I would align my comments with those of my other two Commissioners.

CHAIRMAN CASTRO: Any comments over here on the Democrat side? Commissioner Kladney?

COMMISSIONER KLANDNEY: I also intend to vote no on this. I believe that each state and jurisdiction should fend for itself, and have its own definitions of what it needs. I'm sure everybody has had an opportunity to read my statement.

I think that when it comes to making just compensation payments, people who own residential properties, depending on the state and jurisdiction, get not just compensation for their property, they get relocation money, they get all sorts of other stuff, excuse me, compensation. And I
believe that, you know, every jurisdiction should
decide for itself whether it should have a
redevelopment plan or not accept redevelopment in the
Kelo sense of the word. And the Supreme Court does
have the final word and definition on this, and they
have decided so far to uphold redevelopment types of
projects.

I believe that every jurisdiction has
the right to choose its own method of how it wants to
impose Eminent Domain in its jurisdiction. Thank you.

CHAIRMAN CASTRO: Any other comments
before we vote? Commissioner Yaki?

COMMISSIONER YAKI: Yes, thank you very
much. I support the Chairman's proposal, but given
the fact that it's probably not going to pass, I was
not going to make any -- I was thinking of making
amendments, but I don't think that it's worth the
time, other than to simply make a few remarks about
the issue of eminent domain.

While I agree with many of my colleagues
that this is an issue that is very state or even
municipality-specific, I think that the impact in
terms of the Civil Rights laws and impact on
minorities in this country is -- has a nationwide
impact.
I think that given when you think about the fact that our Civil Rights laws are meant to protect people across state boundaries, to be able to cross state lines to go to places of economic opportunity wherever they may be, the odd juxtaposition of redevelopment laws and eminent domain often result in the exact opposite, which is to drive people away from areas where they could or had economic prosperity, safe housing, and a place that they called their home or their neighborhood.

Too often in these instances, in a rush dependent on the economic times, the tax base, any number of different factors, municipalities go into these with good ideas and good intentions. But as we all know, the raison d'être of our Civil Rights laws is that there may be good ideas and good intentions, but without monitoring and enforcement, and real measurement of what the impact would be, you have these, I think, situations where communities are disrupted, divided, and a second diaspora occurs for many of these communities. And money doesn't solve the problem. It's more fundamental in that it goes to the roots of political power, it goes to the roots of community empowerment, issues of economic, environmental, racial justice are frequently
intertwined with these types of activities. And this barely scratches the surface of the complexities of what goes on in these types of takings.

And like what we said about perhaps the other briefing that we alluded to, I was not here for this briefing. This is one of those briefings where I believe I was gone for -- not of my own choosing, but it's something where, obviously, this is something that I would have structured differently. I would have held the briefing differently. There are many more facets to this than meet the eye. And as a beginning, this is okay, but it's nothing anywhere near addressing the depth and the human cost that eminent domain nowadays inflicts upon many minority communities in America.

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes.

COMMISSIONER HERIOT: Can I make one more comment?

CHAIRMAN CASTRO: Yes, you may.

COMMISSIONER HERIOT: Well, I just wanted to comment on that section, providing more procedural protections or compensation for residents than to commercial property owners. A respectable argument can be made that would go just the other way around,
actually, and that is that certain commercial
businesses have a big ticket item that is left off,
and that is customer goodwill. If I were to run a
restaurant and have a loyal clientele in a particular
neighborhood and I have to move just like three miles
away because of an eminent domain issue, those
clients, you know, those customers won't come, and
I've lost something really very profound; whereas, a
resident's move may be less of a problem.

But certain businesses, on the other
hand, don't have that sort of customer goodwill
that's attached to a particular location the way a
restaurant or a small store might. So, I actually
think there are going to be a lot of cases where it's
the commercial property owner who has the bigger
problem rather than the smaller problem.

CHAIRMAN CASTRO: Point well taken. All
right. Well, let's take a vote on this.

Madam Vice Chair, how do you vote on
Part B?

VICE CHAIR THERNSTROM: No.

CHAIRMAN CASTRO: Commissioner Kirsanow,
how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot,
how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: No.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: No.

CHAIRMAN CASTRO: And I vote yes. The motion fails, but I'm pleased that I was able to bring you all together in a bipartisan way to oppose my motion.

(Laughter.)

COMMISSIONER HERIOT: Not all.

CHAIRMAN CASTRO: Not all, you know, you had a Democrat join.

So, next we have a number of updates on some of our reports, so I will turn the stage over to our Staff Director. Madam Staff Director, the floor
is yours.

STAFF DIRECTOR SALLO: Commissioners, at this point in time we do have an in-house editor for a six-month period who has worked -- she's working diligently to make sure that all of our current reports that are in the pipeline are taken care of, and edited with covers and everything in order to get it out. The next two reports that are in queue are the Sex Trafficking report, along with the Arab and Muslim report. And after that, we'll take the rest in order with the hope that we can complete everything and issue these reports no later than April of next year.

CHAIRMAN CASTRO: Any questions for the Staff Director? Hearing none, we will move on to our next topic which is a vote on the results of the telephonic vote -- no? What's next? Okay, so we just have to put it on the record.

IV. PROGRAM PLANNING

RESULTS OF THE TELEPHONIC VOTE

HELD ON JULY 21, 2013

CHAIRMAN CASTRO: Okay. So, we are putting on the record -- so, I need to read those? How do I do this? What do I read? I have to read the whole thing?
STAFF DIRECTOR SALLO: Well, there have been questions because folks seem to have been unaware that we held a telephonic meeting, so I just wanted to make sure that we put on the record the date that the telephonic meeting took place, and what the results were of the actual vote for the findings and recs.

CHAIRMAN CASTRO: Okay, so let me put that on the record. The meeting was held on July 21st, 2013, which was a Sunday, to vote on the findings and recommendations for the 2013 Statutory Report on Sexual Assault in the Military. Since the Commission did not hold meetings in September or October, this was overlooked at the August 2013 meeting. That's why it's on the agenda today. The result of that telephonic call was that there was no consensus on the findings and recommendations for the 2013 Statutory Enforcement report, which has subsequently been published and released by a September 30th statutory deadline.

IV. PROGRAM PLANNING

PROPOSALS FOR THE COMMEMORATION OF THE

13TH AND 14TH AMENDMENTS

CHAIRMAN CASTRO: Okay. So, now we will move on to the next topic, which is a joint proposal
that Commissioner Heriot and I have circulated to the Commission for commemoration of the 13th and 14th Amendment anniversaries which will be coming up in due course over the next period of time. Hopefully, everyone has had an opportunity to review those.

This is similar to what we did with Lincoln Cottage, although at this point, obviously, we're not identifying an entity like Lincoln Cottage to partner with, but we've sort of set forward a framework for directions that we might take this in. And I'll actually ask Commissioner Heriot to chime in, as well, and then we'll make a motion.

COMMISSIONER HERIOT: Okay. I just wanted to say that the anniversary of the 13th and 14th Amendments is an extremely important date in our history, and I think that the Commission on Civil Rights has a responsibility to try to make sure that it is properly commemorated, and we bring in as many organizations and various entities as we can to make sure that this gets celebrated with all the dignity that it should be celebrated.

CHAIRMAN CASTRO: So, for discussion purposes let me make a motion based on the proposal that was submitted and circulated to all of you by myself, and by Commissioner Heriot. Do I have a
second?

COMMISSIONER HERIOT: Second.

CHAIRMAN CASTRO: Okay. Any discussion, questions? Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Mr. Chairman, I think this is an excellent proposal. I think it follows nicely on the cooperative effort we undertook last year with the Lincoln Cottage to commemorate the Emancipation Proclamation which, by the way, I don't feel we've publicized the product of which gathering was generated as broadly as I hope we intend to going forward. And I like the emphasis in this new proposal on having contact with the states, and encouraging state legislatures, as well, to recognize this in locally appropriate ways. Involving our Regional Directors and State Advisory Committees, I think, is a nice touch, as well. So, I think it's really an excellent proposal, and I intend to support it.

CHAIRMAN CASTRO: Thank you. Any other questions, comments from members of the Commission? Hearing none, then let us take a vote on this.

Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: I think it's an excellent proposal. I'm not sure I should be voting on anything --
CHAIRMAN CASTRO: Oh, yes, you should. You're a sitting Commissioner. You have the right to vote.

VICE CHAIR THERNSTROM: All right. Okay. Yes. I vote 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 Gaziano, how do you vote?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: Aye.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: And I vote yes. It's unanimous. Thank you all, this is good. Another...
bipartisan program that we're going to really be proud of, so thank you.

IV. PROGRAM PLANNING

LETTER TO DEPARTMENT OF DEFENSE

ON BEHALF OF SIKH MILITARY MEMBERS

CHAIRMAN CASTRO: Next we have on the agenda a proposal, I know some of us have talked about this, and I previously before the shutdown have circulated a draft of a letter to the Department of Defense regarding the issue that was brought to our attention in our May briefing by Major Kalsi about the concern in the Sikh American community about certain policies of the Department of Defense prohibiting -- possibly prohibiting service of Sikh Americans and other members of different religious minorities unless they gave up their Articles of Faith. In the case of the Sikh Americans, their beard, their unshorn hair, and their turban.

There was a concern among many of us about that issue, and rather than wait for a report to come out, we wanted to put forward a letter. The initial letter that I circulated was not, necessarily, the direction that most folks wanted to go in, so what I've done is revised it to make it more of an inquiry to the Department of Defense to
allow them to provide us their perspective on this issue before we draft our report, as opposed to approaching them with a view that we already considered this to be a problem and wanted them to do something about it.

So, I've tried with the assistance of a few folks here to present a letter that is more inquisitive, more of an inquiry than the original letter was. So, hopefully, you've all had a chance to look at that letter. And I don't know if folks have any comments or questions before we make a motion on that.

COMMISSIONER KLADNEY: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Kladney?

COMMISSIONER KLADNEY: I actually believe that we should let the staff make general inquiry, get as much information as possible from Department of Defense included in the report. I don't think a letter of this sort really covers the entire gamut of the four different services, and whatever.

CHAIRMAN CASTRO: Okay. Any other comments? If not, I will move that we accept and approve this letter. Is there a second?

COMMISSIONER ACHTENBERG: Second.
CHAIRMAN CASTRO: Okay. Let me take a vote.

Madam Vice Chair, how do you vote?

VICE CHAIR THERNSTROM: I'm deferring my vote for a minute.

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

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I vote yes. I just wanted to comment, there's an acronym in here that we don't define.

CHAIRMAN CASTRO: Okay, which one is that?

COMMISSIONER HERIOT: I think it's EMS.

CHAIRMAN CASTRO: Okay, we'll define that then.

Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

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

CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLADNEY: Abstain.

CHAIRMAN CASTRO: Madam Vice Chair?

VICE CHAIR THERNSTROM: I'll vote yes.

CHAIRMAN CASTRO: And I vote yes. Okay, so the letter passes unanimously and we will define EMS. I believe we have -- Commissioner Kladney, although you voted no, would you --

COMMISSIONER KLADNEY: I abstained.

CHAIRMAN CASTRO: Oh, you abstained. Would you consider still signing the letter, or not?

COMMISSIONER KLADNEY: I'll sign it.

CHAIRMAN CASTRO: Okay. So, I think we have all of the Commissioner's electronic signatures so we'll insure that that's done. Thank you very much, appreciate this.

Now we move on to Management and Operations. Madam Staff Director, the floor is yours again.

V. MANAGEMENT AND OPERATIONS

STAFF DIRECTOR'S REPORT

STAFF DIRECTOR SALLO: Thank you. Commissioners, I just wanted to provide an update, and I wanted to use the framework of our current
Strategic Action Plan to provide you with updates. As you know, as we move toward submitting our budget request in February, we have to provide an update as to how far we've gotten along on certain goals and objectives that are contained within our Strategic Action Plan. So, as it stands right now Goal A pretty much refers to the reports that we issue. And, obviously, that is an ongoing process, and we do have several reports that are in queue. And as of today, we've now scheduled some upcoming briefings, so that goal will continuously be updated.

In reference to Goal B, it indicates that we would regularly provide new objective information and analysis on Civil Rights issues. And, obviously, when this was put into effect, the one project that we had in the pipeline was the Stand Your Ground project.

As you know, today we voted to hold a briefing, but in reference to the actual report that was submitted for consideration by Commissioner Yaki, what we have done with the help of staff along with our interns, Richard Ahne, and Reziya Brumfield, and Ms. Stitcher, we have gone forward and we have looked at least half of what was requested within the project, I guess, outline that was provided by
Commissioner Yaki, so I will be more than happy to disseminate after our meeting today a status on the different sections that we have looked at. We have gathered lots of research. We have looked into some of the data that's out there. At the present time, we're also trying to get data from FDLE so that we can also take a look at the analysis that has already been done. There are some agencies in the community that have taken the data that we were proposing to look at and they have analyzed it themselves. And the Congressional Research Service is my understanding as a result of a hearing that I recently attended, that they've also done this analysis. So, we're in the process of collecting that, because if the analysis is along the same lines of what we were proposing, then I think it behooves us not to reinvent the wheel, and use the information that they've provided as we move forward in cultivating our project.

As we move on to Strategic Goal C, this one deals with apprizing individuals of Civil Rights laws and policies. And it also had some interior, I'm sorry, some goals and objectives that applied within the agency itself, so I wanted to advise everyone, as I previously indicated, we do have a contractor on board for six months who's helping us not only with
the actual reports. Rather than hiring an individual contractor for a report, we just have someone in-house doing all the reports. But at the same time, we are revising our style guide which is what staff uses as they draft the reports. And we're also revising our Uncle Sam publication, and in addition to that, we will be translating our Uncle Sam publication into Spanish, as indicated in the Strategic Action Plan.

We're also tracking complaints online. We receive a lot of complaints from correctional facilities, and so in meeting with staff we have determined that there are some issues out there that keep arising from certain facilities, so we're going to track them so that we can then report any significant findings to the Department of Justice, since it is our job to refer complaints to them. But I'd rather have it be specific types of complaints where we can say in X Correctional Facility we've identified these two issues as a result of this number of complaints.

In addition to that, we have discussed also mapping complaints that we receive nationwide because sometimes when you map, you're able to identify specific issues in a region. And so, we are
also working on doing that as part of our Clearinghouse project, and as part of our complaint process.

As we move forward, we will also be updating our website, removing items off the website that are out of date, and pretty much tightening the website so that it becomes a bit more user-friendly.

One of the additions to that will be to actually provide links to all of the federal agencies within their Civil Rights Department, rather than having folks call us and then we having to speak to someone and say well, we don't actually investigate the complaint. We'll have to refer you someplace else. It makes more sense to actually provide that information on the website and provide an active link that will take them directly to the Civil Rights Division of the respective agency. So, the goal would be to establish that in English, and then ultimately in Spanish, and any other language that we may identify in the future that is prominent in reference to queries that we receive from the public.

As we look at Strategic Goal D, which is about improving the Commission's profile and effectiveness in communicating with the general public, some of what I just spoke about also falls
under this umbrella, but in addition to that, we had indicated that we would be translating some reports into Spanish. We have identified four SAC reports from different regions that addressed that affect the Latino community, and as a result those four reports will be translated. And, in addition, we will be translating into Spanish the Bullying report, and that will also be issued. So, at the present time, I believe the Illinois report is completed in Spanish. We're moving on to a Connecticut report, a Texas report, and I can't remember the fourth state, my apologies. So, we're in the process of doing that.

As it applies to our website, I'm happy to say that we just had a test run yesterday with Ready Talk, and Ready Talk will allow us to actually hold webinars with not only our staff, but our SAC members. So, Ready Talk will be used next week for a mandatory two-day training that all staff and regional offices will have to participate in on report writing.

As we move forward, it is very important when we draft our reports that there's consistency, and that there's uniformity. And templates are necessary, so we have someone coming on board to provide training to staff for two days. They will
leave us with templates and everyone will be on the same page as it applies to what is required in a report, and what is needed in a report for it to be effective, and to allow us to present the material in the best light to the public. So, we are working on that, as well.

I know that Commissioner Kladney has been hoping and praying for video conferencing, and so at this point in time we're hoping that we can test that in January. So, we will keep everyone abreast of how that is going, but the goal is for that. We've put all the wires in to allow us to do that, and we have the equipment to do the Ready Talk. Now we just have to get the audio set up, and then we'll be able to do a test run.

COMMISSIONER YAKI: Does that mean that Commissioner Kladney can participate in a conference with just a picture of his head on his chair?

STAFF DIRECTOR SALLO: Wouldn't be any different, but then we go on to --

(Laughter.)

STAFF DIRECTOR SALLO: Sorry. We go on to Strategic Goal E, where we discuss strengthening the Commission's financial and operational controls.

COMMISSIONER ACHTENBERG: Can I ask a
question?

STAFF DIRECTOR SALLO: Yes, ma'am.

COMMISSIONER ACHTENBERG: Is that live streaming of our media?

STAFF DIRECTOR SALLO: That is also another component that we will hope to do a test run in January, yes.

COMMISSIONER ACHTENBERG: Thank you.

STAFF DIRECTOR SALLO: So, the framework is there. It's just getting it ramped up so that we can ultimately do the test run.

In Goal E, as it applies to our financial and operational controls, we currently have an ongoing audit. It's safe to say that nothing has been flagged thus far, so that's -- I'm very proud of staff for working so diligently on this issue. We're undergoing a FISMA audit, as well, so everything there is in compliance.

I've been in conversations with the IG and giving them updates because that was one of the goals in the IG report, is that we came into compliance with FISMA. So, I'm happy to report that we're moving along.

As it applies to our Human Capital Plan, Tina identified someone that could come in to work
with us whom I am very impressed with, who will be working with us in order to make sure that we align our Human Capital Plan with our Strategic Action Plan, with the ultimate goal to make sure as we move forward into the next fiscal year that our performance appraisals that we're using comport with not only the Human Capital Plan, but the Strategic Action Plan, and are truly delivering a very specific perspective on each employee's goals and objectives while they're here in the Commission.

It is important as we move forward to evaluate the employees and make sure that the performance plan that is being implemented truly captures what their duties are on their job, so we are working very closely to modify that, along with the AIs. I have set a time line for all employees in the sense that they are -- everyone has reviewed the AIs, we have now flagged them to see what needs revisions and what needs to be tweaked, and now we're going to start our working groups to make sure as we move forward that all of that can be taken care of.

In addition to what I've just described, I told you about the training. Online training will also be expanded, so as you know, we also -- we always have to do our ethics training. Our SAC
members are required to do ethics training. We now have online ethics training for all of our SAC members, so as soon as they are appointed they do the training, and then they can print out their Certificate of Completion. And I have to thank Jennifer Hepler for that. We're ongoing in Office of Government Ethics audit right now, and they brought to my attention that they were very happy that she was able to implement this online training. Apparently, this was requested from a long time ago, but Jennifer came in and she was able to get it done in a very short period of time, so I have to thank her for that.

And, finally, Strategic Goal F, which is to increase participation of our SACs. As you know, I did have the opportunity before the furlough to visit not only our Rocky Mountain office, but our Western Region office. I have had the pleasure since then to have continuing conversations with SAC Chairs. The Regional Directors have been very helpful in putting together conference calls with all the SAC Chairs within their region. They have been very productive.

I have also participated in SAC Committee meetings telephonically, and the goal is to establish bimonthly SAC Chair conference calls with
the Staff Director and all the SAC Chairs so that there can be an exchange of information. The one feedback that I'm getting from all the SAC members is that they feel disconnected to the Commission, and so my goal is to not only raise awareness through an exchange of information between the Commission and the SAC members, but also between the SAC members themselves.

So, that said, our website is being updated and a new page will be added that is specifically for our SACs. And on that page we will announce any reports that are being released by the SACs, any appointments by the uploading of press releases, and SAC members will also be able to go on there and access any information on financial disclosure rules with a link to the website, or any government ethics rules with a link to the OGE website.

In addition, we're setting up emails for them so that they can have an exchange of information through a LISTSERV. We're doing e-blast so that they're aware of what other SACs are doing, and what the Commission as a whole is doing. There is a proposal by some of our Regional Directors to establish a newsletter and they're going to draft it,
and they're going to be sending it out to make sure that there's communication between the different regions, and the different SAC members. And I believe that is about it as it applies to the updates from the Staff Director's office.

CHAIRMAN CASTRO: Is that all? What do you do with your time? I want to thank you, Madam Staff Director for, first of all, the report that tracks our Strategic Plan. I can't tell you how many organizations I'm a part of that will do a Strategic Plan and then it sits on a shelf and no one ever monitors whether we're hitting the guideposts. And I'm really, really pleased to see that you're doing that on top of the substantive efforts that are occurring to make sure that that happens. So, I want to thank you and the staff that are making that occur, and I'm really pleased that you're acting on many issues that we've been wanting to do for a long time, whether it's SAC engagement, whether it's access to the LEP community. So, bravo, appreciate it.

STAFF DIRECTOR SALLO: Thank you. But I couldn't do it without the staff.

CHAIRMAN CASTRO: Absolutely. Any questions for the Staff Director on what she just
provided to us?

VI. ADJOURN MEETING

CHAIRMAN CASTRO: Hearing none, then I am happy to entertain a motion to adjourn.

COMMISSIONER HERIOT: So moved.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER KLADNEY: Second.

CHAIRMAN CASTRO: Okay, there we go. All those in favor say aye.

(Chorus of ayes.)

CHAIRMAN CASTRO: Okay, the meeting -- oh, hold on.

STAFF DIRECTOR SALLO: I'm so sorry.

CHAIRMAN CASTRO: What?

STAFF DIRECTOR SALLO: I failed to give one last update. We have a General Counsel that's been chosen, and he will be commencing on Monday, December 16th.

CHAIRMAN CASTRO: Can you share a name?

STAFF DIRECTOR SALLO: Oh, sure. His name is Rorey Smith, and he is -- he comes to us from the Courts Services and Offender Supervision Agency of the Office of the General Counsel. He has served there as both Deputy General Counsel, as well as Acting General Counsel. He has a Bachelor's in
Business Administration. He has a JD, and he an LLM in Law and Government with a Constitutional and Civil Rights Admin Law and Regulatory Practice certificates from American University.

CHAIRMAN CASTRO: Great. Well, thank you. Welcome news.

COMMISSIONER GAZIANO: With that announcement, I'd like to review our AIs, and I'd like the Staff Director to do so, as well. If I remember correctly, and I think it's -- whether it's our AI or CFR, might even be a CFR, that the Commission has either 30 days to reject the General Counsel's appointment, or that we need approval. I think it may be a rejection right, but I think there should be a formal submission if either of those is true.

CHAIRMAN CASTRO: I believe that that was when the General Counsel was a Presidential appointee.

STAFF DIRECTOR SALLO: Yes, this is a General --

CHAIRMAN CASTRO: This is a career appointment now, so that is something that is not in the purview of the Commission.

COMMISSIONER GAZIANO: Okay.
CHAIRMAN CASTRO: Yes.

COMMISSIONER GAZIANO: If that is - okay. So, that makes sense, but I'd like at least, if it is a career appointment --

STAFF DIRECTOR SALLO: It is. It's a career. It went through the process as a -- it's a GS position.

COMMISSIONER GAZIANO: Okay. If I have a further question upon research, I'll submit it.

CHAIRMAN CASTRO: Call the new General Counsel.

(Laughter.)

COMMISSIONER YAKI: And you have one month to do it.

CHAIRMAN CASTRO: All right. Well, now we have a motion to adjourn pending. All those in favor say aye.

(Chorus of ayes.)

CHAIRMAN CASTRO: Aye. It is now --

COMMISSIONER YAKI: Farewell, Abby.

CHAIRMAN CASTRO: -- 11:25 p.m. Eastern --

COMMISSIONER HERIOT: You didn't call for the noes, again.

CHAIRMAN CASTRO: Oh, noes. Any noes?
COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Okay. All right. Thank you, everybody.

(Whereupon, the proceedings in the above-entitled matter went off the record at 11:25 a.m.)