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The Commission convened in Room 1178 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 10:30 a.m., Martin Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman
ABIGAIL THERNSTROM, Vice Chair (via telephone)
ROBERTA ACHTENBERG, Commissioner
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner (via telephone)
DAVID Kladney, Commissioner
MICHAEL YAKI, Commissioner (via telephone)

MARLENE SALLO, Staff Director
VANESSA EISEMANN, Parliamentarian
LOUISE DI BENEDETTO
STAFF PRESENT:
MARGARET BUTLER, Acting Chief, OCRE
IVY L. DAVIS, Director, ERO
BARBARA DELAVIEZ, ERO
PAMELA DUNSTON, Chief, ASCD
ALFREDA GREENE
JENNIFER CRON HEPLER
TINALOUISE MARTIN, Director, OM
DAVID MUSSATT, Director, RPCU
LENORE OSTROWSKY, Acting Chief, PAU
ELOISE PLATER
JOHN RATCLIFFE, Chief, BFD
EILEEN RUDERT
MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:
ALEC DEULL
TIM FAY
DOMINIQUE LUDVIGSON
JOHN MARTIN
CARISSA MULDER
ALISON SOMIN
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(9:33 a.m.)

CHAIRMAN CASTRO: Good morning. The meeting will come to order. It is 9:33 a.m. on June 14th, 2013. This is a meeting of the U.S. Commission on Civil Rights. This meeting is taking place at our headquarters at 1331 Pennsylvania Avenue. I'm Chairman Marty Castro.

The Commissioners who are present here in the meeting room with me are Commissioner Achtenberg, Commissioner Gaziano, Commissioner Heriot and Commissioner Kladney. Commissioner Kirsanow, Commissioner Yaki and Vice Chair Thernstrom are participating by phone. Are you all there?

COMMISSIONER YAKI: Yes.

COMMISSIONER KIRSANOW: Kirsanow here.

VICE CHAIR THERNSTROM: Here.

CHAIRMAN CASTRO: Okay, great. So a quorum is present. Is the court reporter present?

He raised his hand acknowledging that.

Is our Staff Director present?

MS. DUNSTON: Present.

CHAIRMAN CASTRO: Great. The meeting shall now come to order. Actually, before we move
on to the formal procedures, today is actually Flag Day. I don't know if you all knew that, but it is. And in honor of Flag Day, I wanted to have us start the meeting with the National Anthem. So, if folks could please rise?

(Whereupon, a recording of the National Anthem was played.)

CHAIRMAN CASTRO: Thank you. That's right, let the games begin.

COMMISSIONER YAKI: I didn't know we were moving to the Verizon Center.

CHAIRMAN CASTRO: I know. Obviously I played that because it's Flag Day, and it's good to have the U.S. Commission on Civil Rights begin that with our National Anthem, but also despite that beautiful song by a 10 year-old American of Mexican descent, it did generate a lot of negative comments about his ethnicity, his race, his immigration status. But I know the overwhelming number of Americans, like everyone in this room, were very proud of that. So I just wanted to share that and celebrate Flag Day with that little boy's rendition of our National Anthem.

VICE CHAIR THERNSTROM: Well, it was very nice, Marty.
CHAIRMAN CASTRO: Madam Vice Chair?

VICE CHAIR THERNSTROM: I just said it was very nice.

CHAIRMAN CASTRO: Well, thank you. So the first item thereafter is the approval of the Agenda.

I. Approval of Agenda

CHAIRMAN CASTRO: I know we have some motions to amend. So let me move for the Approval of the Agenda. Is there a second? Do we have any amendments?

You need to -- we have our new mics, so I think you need to touch the button to start them.

COMMISSIONER ACHTENBERG: Okay. How about that?

CHAIRMAN CASTRO: Can we hear her?

Good.

COMMISSIONER ACHTENBERG: Okay. Mr. Chairman, on behalf of --

COMMISSIONER YAKI: Actually, your mics are all very live, just to let you know.

CHAIRMAN CASTRO: Okay.

COMMISSIONER ACHTENBERG: -- our now-defunct subcommittee, but as a piece of old business, I'd like to move that we pull from
consideration the New York SAC and the Kentucky SAC for very good reasons, Mr. Chairman. We will be in a position to consider them and hopefully ratify them finally at the next meeting. We just are awaiting the resolution of a few more issues before those two packages will be ready for final consideration.

So I'd like to remove them from the Agenda this time, and I would refer to my colleague.

COMMISSIONER HERIOT: I would like to second that motion.

CHAIRMAN CASTRO: Okay. So we have a motion to amend the agenda. Shall we vote on the motion?

All those in favor of the motion to amend the Agenda say aye.

(Chorus of ayes.)

CHAIRMAN CASTRO: Any opposed?

(No response.)

CHAIRMAN CASTRO: Any abstentions?

(No response.)

CHAIRMAN CASTRO: Okay. Now let's move to approve the agenda. All those in favor, say aye.

(Chorus of ayes.)

CHAIRMAN CASTRO: Any opposed?
(No response.)

CHAIRMAN CASTRO: Any abstentions?

(No response.)

CHAIRMAN CASTRO: Okay. Both motions pass unanimously.

Again, before we do go on to the formal items, there's a couple of folks I want to introduce. This agency is very fortunate to have some summer interns working with us this summer that are going to supplement the good work of our existing staff. So we have with us today three interns -- two of the three? No, we have three interns, yes, serving in our Eastern Regional Office. Two are also going to be working in our Midwestern Regional Office, although they're not here today. And one who is going to be in our Office of General Counsel, and also one in our Office of Civil Rights Evaluation.

So joining us here today are Eastern Regional Office, is Frank Berdell here? No, he's not here today. But he's a Government major at the University of Virginia. Gracie Fernandez? There's Gracie. She's a Social Work major from Rutgers University. Khadijah McElroy. Khadijah earned her B.S. in Criminal Justice from Rutgers as well. And
assisting our Midwest Regional Office is Elizabeth Keller, a rising 3rd year law student from Chicago-Kent. Taheera Randolph, a rising 3rd year law student from LSU. Paul M. Herbert -- no, she's from the LSU Paul M. Herbert Law Center. Paul M. Herbert is not an intern. Brenda Long will be working in our Office of General Counsel here at the Headquarters, and Ms. Long is a 3rd year student at George Mason Law School in the fall. And Ms. Amy Fischer, who will be a junior at Cornell this fall, will be contributing her efforts to our Office of Civil Rights Evaluation. She's here with us. And they're all working on interesting projects, which are going to end up on our desks, hopefully soon.

So on behalf of the entire Commission, I just want to welcome you and extend to you our thanks for being part of our team this summer. Thank you.

(Applause.)

CHAIRMAN CASTRO: Now, we have a team member that's leaving us. Is Vanessa Eisemann here? Today is her last day at the Commission, and I want to extend on behalf of all the Commission, if I can speak on behalf of all of us -- and I know on this I can -- to thank you for all of the excellent work
that you've done for us these last -- I guess it's been about a year now, hasn't it? And we will miss you. Your work here has had a positive and important impact, and I know that you're going on to another federal agency to do the same. So thank you, Vanessa.

(Applause.)

CHAIRMAN CASTRO: And as you know, at the last meeting we announced that the President had made an appointment and we had concurred, and now OPM has actually signed off on all the paperwork, so we have our official Staff Director, after two years of waiting, Marlene Sallo, who is now sitting here at my right hand. So welcome in your official capacity for the first time today.

(Applause.)

CHAIRMAN CASTRO: We're now going to go to the first item on the Agenda on Program Planning, and that is to continue our discussion and make a decision that we started on May 31st in terms of what will be our 2014 Statutory Enforcement Report topic.

II. Program Planning

Discussion and Vote on Ranking of Concept Paper

Topics for the 2014 Statutory Enforcement Report
CHAIRMAN CASTRO: As you know, we had a number of topics that we began to discuss and review last month, and I understand that there is a motion on both the Statutory Enforcement Report, as well as one briefing for this coming year. Who would like to make that motion?

COMMISSIONER HERIOT: I think Roberta was going to make it.

CHAIRMAN CASTRO: Okay. The Chair recognizes Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Yes, Mr. Chairman. I'd like to move that the Narcotics Policing Report be made the Statutory Report, and that the Briefing Topic entitled "Enforcing the Americans With Disabilities Act Online" be scheduled as a hearing topic --

CHAIRMAN CASTRO: A briefing topic?

COMMISSIONER ACHTENBERG: I beg your pardon, a briefing topic.

CHAIRMAN CASTRO: Okay. Is there a second on that motion?

COMMISSIONER HERIOT: I second that.

CHAIRMAN CASTRO: Any discussion? Is there a motion to call the question? Oh, Commissioner Gaziano wants to say something.
COMMISSIONER GAZIANO: I just suppose I think that is a reasonable compromise, since it seems to have -- I'm anticipating a majority of the Commission. But I did want to say, before we take the vote, that I was very interested in a number of the other topics. So if this is what we end up settling on, I wanted to thank other Commissioners who took the time to write concept papers. And this wasn't even my favorite Kladney.

CHAIRMAN CASTRO: It wasn't Kladney's favorite Kladney one, either.

(Laughter.)

COMMISSIONER GAZIANO: Which is understandable, you know? You don't get to one -- I helped cosponsor a program on the 50th anniversary of Gideon, for example, with the National Association of Criminal Defense Lawyers, and share a great interest in that topic, for example. I'm not sure how it would have fit in within our jurisdiction, but I'm sure we could have -- that was my only concern with that one. Well, sometimes fake shoehorning doesn't work as well. But anyway, there were several very interesting topics.

There were also one or two others that I hope further accommodations we can work out, so that
we can maybe come to other understandings on other
briefing topics, others that were recommended by
sort of both sides of our ideological, or many
sides, of our ideological spectrum. So I hope that
whatever agreement we reach today can bode well for
similar agreements on other topics.

CHAIRMAN CASTRO: We certainly intend at
some point later on in the life of this Commission
and in the next few months to begin to look at what
briefing topics we're going to have for the
following months, and at that time I'm sure
Commissioners will not only renew some of these
topics, but come up with others. I know some of
these topics have been looked at even last year, so
these will remain in the hopper as we begin to
explore that. But we won't deal with those issues
today. But I appreciate your making that point.
Any other comments?

VICE CHAIR THERNSTROM: Mr. Chairman, I
have a question.

CHAIRMAN CASTRO: Yes, ma'am?

VICE CHAIR THERNSTROM: So we all voted.
We rank ordered these topics. What happens to
those votes?

CHAIRMAN CASTRO: Well, as we did last
year, it was used primarily to guide the discussion at this meeting. Because initially when I first became chair, there was a question as to which of these do we begin to vote on first. And so it was decided that we would rank them and use the ranking to help guide our discussion at the meeting that would decide it. The ranking itself was not the decision on what would happen, and I believe even last year the highest ranked one may not have actually ended up being chosen, ultimately, as the Statutory Enforcement Report. So it really is a guide to help us with the discussion.

VICE CHAIR THERNSTROM: And so you're not going to report to us -- this is really not a hostile question, but it's a question.

CHAIRMAN CASTRO: I'm sorry. I thought that --

VICE CHAIR THERNSTROM: You're not going to report to us what the ranking votes ended up being, and how these were ranked?

CHAIRMAN CASTRO: I apologize. I thought our Staff Director had circulated this last night after the vote. I know I have a copy, because it was --

VICE CHAIR THERNSTROM: I don't have
CHAIRMAN CASTRO: Okay. Was that circulated, Madam Staff Director?

MS. SALLO: No.

CHAIRMAN CASTRO: Okay. I have a copy here, then. I apologize. Maybe we can -- can someone email this to the other Commissioners?

VICE CHAIR THERNSTROM: I don't have it.

CHAIRMAN CASTRO: I can tell you right now, if you'd like to know. I will -- let's see. So Assessing Compliance with Section 342 of the Dodd-Frank was ranked as follows by various Commissioners without names. Someone ranked it number 10, number 8, number 12, number 5, number 7, number 6, number 7. It did not obtain a final rank. I think only the top three got ranked. So I can actually -- let me read you the top three, I guess.

MS. SALLO: There were ties.

CHAIRMAN CASTRO: There were ties, okay. So first place was Identifying and Remedying Discrimination Against Asian-Americans in University and Professional Schools. That had three votes for first place. And two votes for first place came for Narcotics Policing, as well as two votes for second place. Gideon had two votes for second place, Felon
Disenfranchisement had two votes for third place. Religious Discrimination by the Federal Government had two votes for second place. OCR and DOJ's Enforcement of Sexual Harassment Law at Colleges and Universities had two votes for third. And Enforcing the Americans With Disabilities Act Online had two votes for second.

VICE CHAIR THERNSTROM: Thank you very much.

CHAIRMAN CASTRO: You're welcome.

VICE CHAIR THERNSTROM: And I would love a copy of that.

CHAIRMAN CASTRO: We'll make sure that gets to you. I apologize for that.

VICE CHAIR THERNSTROM: If the Staff Director could just send it to Tim Fay, I will get it.

CHAIRMAN CASTRO: Okay.

MS. SALLO: I will do so.

CHAIRMAN CASTRO: Okay. So we have a motion and a second. Any other discussion?

(No response.)

CHAIRMAN CASTRO: If not, I'm going to call the question. Vice Chair Thernstrom, how do you vote?
VICE CHAIR THERNSTROM: So you -- I'm sorry. Say it again? What's the question you're calling?

CHAIRMAN CASTRO: Sure. This is the motion to approve the Statutory Enforcement Report for 2013 being "Narcotics Policing, Discretionary or Discriminatory?" as well as a briefing topic of "Enforcing the Americans With Disabilities Act Online."

VICE CHAIR THERNSTROM: I'm going to take a pass on this. I haven't decided what my position is.

CHAIRMAN CASTRO: Okay, so I'll come back to you. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: I vote 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.
VICE CHAIR THERNSTROM: Commissioner

Yaki, how do you vote?

COMMISSIONER YAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLABDNEY: Yes.

CHAIRMAN CASTRO: And I vote yes. Madam Vice Chair?

VICE CHAIR THERNSTROM: I'll vote yes.

CHAIRMAN CASTRO: Okay, it's unanimous.

Great. Thank you all.

The next item on our agenda is Management and Operations.

III. Management and Operations

Consideration of Changes to Business Meeting Calendar for August 2013

CHAIRMAN CASTRO: At the last meeting, we had changed the September meeting date to September 27th, at my request, because I'll be out of the country, and I appreciate folks' indulgence on that. We also left to today the discussion of whether or not we would have an August meeting, which is currently set for the 16th of that month, but I also understand that Commissioner Heriot wanted to raise an issue regarding timing of
surreplies, because we changed the September
meeting.

So, why don't we sort of talk about that
all right now?

COMMISSIONER HERIOT: My understanding
is that, as a result of moving the date of the
September meeting, if surrebuttals are necessary in
the Criminal Background Check Report, which we are
planning on voting on in September, as I understand
it, it will go past the date of the expiration of
some of the Commissioners. Now, usually we don't
need surrebuttals, and I'm hoping we won't need them
in this case either, but just in case I'd like an
understanding that, as a result of moving the
meeting, it will be possible to get those
surrebuttals in and still be on time.

CHAIRMAN CASTRO: And I had no issue
with that. I don't know if other Commissioners are
comfortable with that?

COMMISSIONER GAZIANO: Let me just ask -

CHAIRMAN CASTRO: Sure.

COMMISSIONER GAZIANO: Let me just ask a
question of both Commissioner Heriot and the other
Commissioners, I suppose.
Would your preference, Commissioner Heriot, be -- as well as the rest of the Commission -- that if a surrebuttal were needed, that the timeframe wouldn't be compressed for them, but that they would be accepted after a Commissioner's term expired, if that Commissioner submitted, say, an original or rebuttal statement? Or would your thought to solve this issue be to compress somewhat the times to allow the surrebuttal to be in before some of our terms expired?

COMMISSIONER HERIOT: I guess my preference would be to not compress, and to just let them be submitted after the dates of the expiration. But I'm willing, if anybody feels strongly on a direction --

COMMISSIONER YAKI: This is Commissioner Yaki.

CHAIRMAN CASTRO: Hello, Commissioner.

COMMISSIONER YAKI: If I recall, and I may not recall correctly, I was not allowed to submit something after my Commissioner term has expired.

CHAIRMAN CASTRO: Yes, my concern was going to be letting anyone do something after their term expires. So if we could compress the time, I
think that would be best, and the details of how we do that can be handled with our staff director. But I think, if there's a general understanding I don't know if we need to vote on that, and if we need to vote on it, we'll have a motion. But without a date, maybe we just --

(Off-mic comments.)

CHAIRMAN CASTRO: Oh, that's me. You know what, I accidentally muted you. I have a special mic here.

COMMISSIONER GAZIANO: The Chairman has power, ladies and gentlemen.

CHAIRMAN CASTRO: Finally I have power, beyond just this gavel. There's ejection seats as well, so I'll just give you early warning on that.

COMMISSIONER KIRSANOW: I want that power, too. Give it to me. Especially on Todd.

COMMISSIONER GAZIANO: Anyway, I don't think we need to vote on that. And while we may be able to make an exception to an exception, it may be cleaner. But as long as we have kind of a general understanding, a willingness to do that, then I'm fine.

CHAIRMAN CASTRO: Okay. Great.

So then in terms of the August meeting,
what do folks think? I know we've had brief conversations about this at a couple of our meetings, but we -- since it is June, we need to decide whether we're going to move forward with an August meeting. I think we need to, but I want, obviously, to give the Commissioners an opportunity to discuss that. And I'll go with the will of the majority.

COMMISSIONER HERIOT: My preference is to have a meeting, because we've got lots of work we haven't done. We need to get SACs chartered, something may go wrong with the enforcement report, and so that's my preference.

COMMISSIONER GAZIANO: What was the proposed day? I don't --

CHAIRMAN CASTRO: For August, it was either have the meeting or not. It's already set for August 16th.

VICE CHAIR THERNSTROM: I thought there was a temporary -- we were putting the 16th temporarily on hold.

CHAIRMAN CASTRO: Well, we put the 16th down. What we put temporarily on hold was whether or not we were going to proceed or not.

COMMISSIONER KLASTNEY: Here's a
proposal.

CHAIRMAN CASTRO: Yes?

COMMISSIONER KLADNEY: Why don't we move the July meeting to the end of July and see what -- I'm just saying. You don't have to shake your head right away.

CHAIRMAN CASTRO: I didn't shake my head.

COMMISSIONER KLADNEY: No, no.

CHAIRMAN CASTRO: I'm just turning to look at you.

COMMISSIONER KLADNEY: Never mind.

CHAIRMAN CASTRO: Certainly -- you were just joking?

COMMISSIONER KLADNEY: No.

CHAIRMAN CASTRO: Because I was looking at my calendar. What do folks think about that?

MS. SALLO: May I?

CHAIRMAN CASTRO: Madam Staff Director, yes, you may.

MS. SALLO: At the present time, we need any and all statements from the Commissioners on the Statutory Enforcement Report no later than July 26th.

CHAIRMAN CASTRO: Okay.
MS. SALLO: And it is our goal --

COMMISSIONER HERIOT: What did you say?

MS. SALLO: Your statements, which I know a lot of folks are already preparing --

COMMISSIONER HERIOT: Statements? We don't have 30 days to do our statement?

MS. SALLO: Well, we are in a bind right now, because the first draft that was circulated to the Commissioners has received significant revisions. And at this point in time, we are trying our very best to send out an additional revised report by next Monday.

CHAIRMAN CASTRO: Which is the 17th?

MS. SALLO: Yes.

CHAIRMAN CASTRO: Okay.

MS. SALLO: Which then puts us in a position where I actually need comments by Friday the 28th of June, in order to incorporate those comments the week of July 1st, and then get the report back to you once again with a goal that has been, from the beginning, to vote on the final report at the July 12th meeting.

COMMISSIONER HERIOT: And I was figuring we would then have 30 days from that date to do our statements.
MS. SALLO: And if we do that, it's going to put us past our statutory enforcement deadline.

COMMISSIONER GAZIANO: Well, let's work out a schedule. We need -- I mean, let's do it now.

COMMISSIONER HERIOT: Hold on here.

COMMISSIONER GAZIANO: For all this.

MS. SALLO: Because we need to have the plan to Pam, the actual report, by August 26th so we can start working with GPO. And then we have to publish it, and it has to be disseminated by September 30th.

COMMISSIONER GAZIANO: Well, in the past, we've disseminated an electronic version, and --

MS. SALLO: And we will be.

COMMISSIONER GAZIANO: -- then worked out the formal dead wood version later. So let's just --

MS. SALLO: But you still need the GPO to take a look at it and decide how it's going to be laid out.

COMMISSIONER GAZIANO: I understand, but most of it can be laid out without the Commissioners' statements, and most of the work can
be done, and then you can add the Commissioners' statements. So if we do approve this July 12th, let's just say that the first Commissioners' statements are due August 12th, rebuttal would be, say, September 11th, or something like that.

MS. SALLO: Can we compress the rebuttal time, please?

COMMISSIONER GAZIANO: I'd rather not. And hopefully there will be no surrebuttal, and therefore we'd be done September 11th. That would leave almost 20 days to put it in -- but if everything else is done on it, all charts, all graphs, all everything, and you're just -- you know, we Commissioners, we tend to just have a few words.

(Laughter.)

CHAIRMAN CASTRO: Few meaning googol.

COMMISSIONER HERIOT: But not very many charts.

COMMISSIONER GAZIANO: But not very many charts or whatever. I would certainly hope that 15 days or so would be fine to append. And obviously, you could be working on the original statements from August 12th, and the only thing you'd need to add is the rebuttal statements, if any, on September 11th.

MS. SALLO: My report needs to be to
copy editing the week of July 15th through the 26th.

I mean, that's the time period that I need to have it to the copy editor in order to be on track for our printing, in order to be on track for our publishing and for dissemination.

And when I talked to the folks up at the Hill, they really don't want paper copies. They want online. Which means that my staff has to do the actual email to each individual Senator and Representative. And the deadline is September 30th, so I need the time to get this done effectively, efficiently, and appropriately.

COMMISSIONER GAZIANO: And I understand that, and I think this schedule is -- Commissioners are pretty much responsible for copy editing their own work. There may be some details, page numbers and things that need to be inserted, but I would think a few days would be -- I used to work at a think tank that had publishing schedules and published long documents, and copy editing could be done in a few hours if necessary, but usually in a few days, for --

MS. SALLO: Ah, but you had staff in-house that could do that.

COMMISSIONER GAZIANO: I understand, but
if everything else is done when Commissioners' statements come in on August 12th, that's a month and a half. And the additional rebuttal statements, the copy editing that would be associated with additional rebuttal statements ought to be able to be done in a few days or a week.

COMMISSIONER KLADNEY: I'd like to just say that I've noticed Commissioner Gaziano's relaxation at this meeting as compared to the past, when he was working elsewhere.

COMMISSIONER GAZIANO: I won't respond to that. But anyway, Gail?

COMMISSIONER HERIOT: I'm worried, in that my summer schedule is -- everything has to fall into place exactly right. I've got other deadlines for other projects. And I think I can compress the time for my initial statement to less than 30 days. I think that that's actually the end I feel most comfortable.

But I've got -- I've been waiting on Supreme Court opinions that I've committed to write essays on, and they want it in mid-July, and there's no opinion for me to write about, so I'm in an awkward position. I was thinking, when I agreed to do that, that I was going to get an opinion in April
and I would have it done before this meeting, but I don't.

What's the latest that you think you can deal with on the initial statements?

MS. SALLO: If you -- if we wait until the August meeting, that just puts us behind completely, because then you have another clock totaling for 30 days for rebuttal, which then pushes us into mid-September, and I just can't push the final report into mid-September. We have a duty to issue this by September 30th, and that to me is front and center.

(Off-mic comments.)

MS. SALLO: I know, but I'm just stressing how important it is that, the faster we get the initial statements submitted in July, the faster we can get the rebuttals in and really make this report come together to give us enough time to disseminate, to get it printed or --

CHAIRMAN CASTRO: So how much earlier than July 26th could we do those initial statements, then?

COMMISSIONER HERIOT: Earlier than July 26th?

CHAIRMAN CASTRO: Isn't that what you
said?

COMMISSIONER GAZIANO: No, we're talking about August 12th.

CHAIRMAN CASTRO: Okay. Because I thought you said Commissioners' statements, pressing that time.

COMMISSIONER HERIOT: Yes, but she did. I mean, the 26th is a huge --

CHAIRMAN CASTRO: Oh, so you want it less compressed than that, is what you're saying.

COMMISSIONER HERIOT: Less compressed, yes.

CHAIRMAN CASTRO: Okay. Never mind.

COMMISSIONER HERIOT: But more compressed than what we were supposed to get.

COMMISSIONER GAZIANO: I still don't quite understand why August 12th is not -- a month and a half is not early enough.

CHAIRMAN CASTRO: Well, that's my birthday. Just kidding.

COMMISSIONER GAZIANO: Why August 12th isn't early enough for initial statements, since that's most of what we write. Why any compression is necessary for a month and a half for copy editing, especially since the main report's going to
be approved June 28th -- I'm sorry, July 12th.
That's two and a half months for copy editing. To
just copy edit our statements, it seems like a month
and a half is fine for original statements. Why --
I mean, we ought to be able to -- and I'm certainly
willing to say, particularly on rebuttal statements,
that if I have typos in mine I'll bear the
embarrassment.

MS. SALLO: I don't want to bear the
embarrassment for the Commission.

COMMISSIONER GAZIANO: But how long does
it take? I mean, what's your --

MS. SALLO: Todd, I have to be honest.
I haven't been here long enough to be overseeing
this to give you a complete answer. I would be more
than happy to go back and answer all the questions
and send something out to all the Commissioners by
early this afternoon.

COMMISSIONER GAZIANO: We've done --

MS. SALLO: I can't explain the process
for copy editing.

COMMISSIONER GAZIANO: We've had similar
--

COMMISSIONER HERIOT: In the past, we've
gone much further towards the end of September.
COMMISSIONER GAZIANO: That's what I mean. We've sort of been over this, I think, the last five years, and that's why I was assuming that the schedule we were on was going to be consistent with that. And I know that there is an awful lot of work, and I didn't mean to minimize that. But I know, and it's sort of been my understanding, the way we've done this in the past, that most of that work proceeds while Commissioners are writing statements.

MS. SALLO: So if I were to say "Go ahead and give your statements by the August meeting," can you --

COMMISSIONER GAZIANO: I think we can set the schedule for the statements to be independent of meeting dates. So if, for example, we want to say around August 10 -- I don't know what day of the week that is.

MS. SALLO: I will let you know in a second.

COMMISSIONER HERIOT: It's a Saturday.

MS. SALLO: It's a Saturday. So if you were to say to submit it to me by August 9th --

COMMISSIONER HERIOT: But that's only two days. I can chop more off the time than that,
but not a lot more. I mean, if we went all the way
to the 12th, that's the full -- actually, if we went
to the 11th, that's a full 30 days, because July has
31 days in it. So that would be what I was figuring
that we were going to get, until the 11th, which
would be a Sunday.

MS. SALLO: Okay.

COMMISSIONER HERIOT: Todd, can you get
it in two weeks before that, one week before?

COMMISSIONER GAZIANO: I'd rather -- I'm
not sure why it's necessary to compress it any, but
a week is as much as I'd want to do.

COMMISSIONER HERIOT: How about that?
The fourth?

COMMISSIONER GAZIANO: Could we go
through a Sunday?

MS. SALLO: That's a Sunday.

COMMISSIONER HERIOT: Get it in by
midnight Pacific time, which is -- it's when I do my
best work.

COMMISSIONER GAZIANO: I hate being
allowed to work until 3:00.

COMMISSIONER HERIOT: I love it.

COMMISSIONER GAZIANO: Pardon?

COMMISSIONER KLANDNEY: I didn't say a
COMMISSIONER GAZIANO: Okay. And then I suppose rebuttals would be September 3rd?

MS. SALLO: Yes.

COMMISSIONER GAZIANO: Can we approve that as the tentative for right now?

MS. SALLO: So Tuesday, September 3rd, you want the rebuttal? Or do you want it Sunday, September 1st?

COMMISSIONER GAZIANO: Tuesday, September 3rd.

CHAIRMAN CASTRO: Isn't this really interesting, interns?

(Laughter.)

MS. SALLO: Then we're set in stone?

CHAIRMAN CASTRO: Maybe clay.

COMMISSIONER GAZIANO: Yes, maybe clay.

CHAIRMAN CASTRO: Is there a motion, then? Do we need a motion on this?

MS. SALLO: No.

CHAIRMAN CASTRO: So I'm assuming as a result of this, we're going to have the August meeting, which is what really generated this discussion. Is that sort of the sense of the Commission?
COMMISSIONER HERIOT: Something's sure to come up that we need to.

CHAIRMAN CASTRO: All right then. The next item --

VICE CHAIR THERNSTROM: Marty, I'm sorry.

CHAIRMAN CASTRO: I'm sorry, Madam Vice Chair.

VICE CHAIR THERNSTROM: Is the date set on the August meeting?

CHAIRMAN CASTRO: Yes. We'd set it for the 16th.

VICE CHAIR THERNSTROM: Okay, so the question -- I've got the 16th down with a question mark, so this eliminates the question mark?

CHAIRMAN CASTRO: You can remove the question mark, correct.

Okay, thank you. The next item under -- I'm sorry.

MS. SALLO: May I just review, so that we're all on the same page?

CHAIRMAN CASTRO: Yes.

MS. SALLO: July 12th is when we vote on the final report. August 4th is when your statements are due. And then rebuttals are due
September 3rd. Correct?

COMMISSIONER GAZIANO: Correct.

MS. SALLO: Thank you.

CHAIRMAN CASTRO: And then you'll circulate that by email to everybody as well.

MS. SALLO: Absolutely.

COMMISSIONER HERIOT: One more aspect of this. It's always important that the statements be circulated immediately.

MS. SALLO: Yes, ma'am.

COMMISSIONER HERIOT: Because that way we get the full period.

MS. SALLO: So at 12:01 in the morning?

COMMISSIONER HERIOT: Absolutely.

(Laughter.)

CHAIRMAN CASTRO: Okay. Good. I think we're done with that. So next on the Management and Operations agenda items is the Consideration of a Letter from the Commission supporting equal opportunity in the U.S. Armed Forces for Sikh Americans.

III. Management and Operations

Consideration of Commission Letter supporting Equal Opportunity in the U.S. Armed Forces for Sikh Americans
CHAIRMAN CASTRO: As you recall, at our briefing last month we heard from Major Kamal Kalsi. He highlighted the issue of a presumptive ban in the Armed Forces for service by Sikh Americans who would wear items that are integral to their expression of religious faith: their facial hair, unshorn hair, and their turbans.

And after the briefing, I think many of us were moved by that presentation -- there was a bipartisan brief conversation among some Commissioners about the possibility of exploring, in advance of a report, a letter by the Commission on this topic. And so I took it upon myself to draft something. And since I don't have a special assistant right now, Alec has been kind enough to be partially detailed to me by Commissioner Achtenberg to help with meeting prep, I though "Oh, I'll give it a shot." And I didn't get a draft out to folks until the wee hours of this morning, so I don't intend to review for approval a letter today.

I just wanted to get something out so that we could begin a discussion and consideration of this at some point in the future as to some letter that we would draft, and I just addressed it here to individuals, but it could be -- talking to
some Commissioners, perhaps it's an initial request
to the Army for a response on this. But just the
concept of this, I wanted to share with folks so
that we can begin a conversation, and hopefully at
maybe the next meeting be in a position to have a
letter that we would all be comfortable supporting,
to at least address this emergent issue.

I think it's not necessarily an
emergency, but it's something that I think many of
us were not aware of, and it's a significant issue
in the Sikh community. So I'm happy to open it up
and get some input and some thoughts, but again, I
don't intend to vote on this today.

Yes, Commissioner Heriot?

COMMISSIONER HERIOT: I think that we're
on the right track that this is an issue that the
Commission ought to be able to deal with, but I do
think we've skipped a step here, and that is that we
need to go to the Army and ask them exactly what
their policy is and why. And this may be simply an
issue where we can perform a function as a
negotiator here, to bring the issue to the
military's attention and try to come up with
something that would accommodate the needs of both
sides.
COMMISSIONER KLADNEY:  Mr. Chairman?

CHAIRMAN CASTRO:  Yes?

COMMISSIONER KLADNEY:  I think that we actually need to ask all the service branches for a response.

CHAIRMAN CASTRO:  Yes. I agree. And my initial thought was the Secretary of Defense, but it is actually an Army regulation that came up. But you're right, there is a DoD policy as well, so I think asking all the branches would be important, not just the Army.

VICE CHAIR THERNSTROM:  Mr. Chairman?

CHAIRMAN CASTRO:  Yes, Madam Vice Chair, and then Commissioner Gaziano. Madam Vice Chair?

VICE CHAIR THERNSTROM:  When we ask about this issue to whatever authority is going to end up being appropriate, I would like it to be put in a larger context of military rules. Because people volunteer for the Army. Nobody is drafted. So you're volunteering for a really -- service in a very special organization in American life. And you know, in general I would like to know what are the liberties you give up? What are you signing onto? I mean, I need a broader context here in order to think about this specific one.
CHAIRMAN CASTRO: Well, that sounds like a concept paper to me. But I don't know how we would go about doing that and stay focused on this, but perhaps there is some more context that may not be that extensive that may be of some assistance in framing this. We can explore that, but I don't necessarily want this to turn into a law review article.

VICE CHAIR THERNSTROM: Right.

CHAIRMAN CASTRO: Any other comments? Oh Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes, I wanted to thank the Chair for putting it on the agenda and drafting the letter. I, like I think probably everyone else, was moved by Major Kalsi's personal statement, and very well-put, and I think very respectfully put. And one of the reasons I am even more inclined to pursue it is because he was so -- in some sense, thankful and respectful for those who had eventually accommodated him. And you always want to help someone who is not hyperbolic in putting their claim.

At the same time, I too want to hear from the different services, and I wanted to draw to the Commissioners' attention that, in our role in
sort of seeking -- or possibly seeking a change in policy, possibly seeking a greater flexibility in accommodation, we're sort of playing a policy rule.

There is a Supreme Court case that most of you I'm sure know, of Goldman v. Weinberger from 1986, and in it the Supreme Court (7-2) held that an ordained rabbi who was also a medic in the Air Force did not have a 1st Amendment constitutional right for an exemption from the Air Force's then policy that he wear a yarmulke.

And what was interesting about the facts of that case is that he was sort of able to get away with wearing his yarmulke, because inside the clinic -- he tried to stay inside the clinic. When he went outside, he wore his service cap on top. So obviously there was no issue with regard to whether he could wear a helmet or gas mask, as was supposedly one of the concerns in accommodated Sikh Americans in the military.

There's just some language in the Supreme Court opinion that's at least slightly instructive as far as the military's interest in uniform dress and appearance and subordinating the individual and having any outward sign of differences subordinated solely to rank. And those
are -- we are not necessarily taking this on as a constitutional issue --

CHAIRMAN CASTRO: No.

COMMISSIONER GAZIANO: -- and if so we'd be doing it in the face of the Supreme Court's 7-2 decision. But I think some of the things that the Supreme Court wrote about may inform our policy views.

CHAIRMAN CASTRO: I'll take a look at that.

COMMISSIONER GAZIANO: And it is a good reason to hear from the services.

CHAIRMAN CASTRO: Absolutely, and thanks for bringing that case to our attention. We'll take a closer look at it.

Any other feedback, input?

(No response.)

CHAIRMAN CASTRO: If not, then we'll take that and run with it, and follow up and put it on the agenda next, and hopefully we'll have something a little more solid. Thank you.

So next on the agenda is -- actually, both our next items are our Staff Director reporting, both on the status update on the issue of agency reorganization, and then I'll let her go
right into the Staff Director's Report after that.

III. Management and Operations

Status Update on Agency Reorganization

MS. SALLO: Thank you, Mr. Chairman. As the Commission is aware, during the continuing resolution earlier this year, we were instructed to look at our organization and to come up with a report that needed to be submitted to the Committees on Appropriations that addressed any ideas that we might have to reorganize both the Commission here at headquarters, as well as the regional offices and the regional programs, and to report back to them as to how the work that we're currently doing is beneficial to our mission.

Because my appointment became official two weeks ago and we had yet to address the very important directive to perform reorganization or to provide a report on possible reorganization, I have submitted letters requesting a 90-day extension to the Committees on Appropriations in both the House and Senate. Thus far, I have received one confirmation that the extension will be granted, and that's from the Majority Office in the House. I have sent emails as a follow-up to everyone else, and hopefully they will get back to me by close of
business today. But going into this, when I did submit the letters, they had said that they were amenable to hearing from us and possibly granting a reasonable extension. So once I receive final confirmation, I will let the Commissioners know.

So that you are aware, I have started looking our internal structure and our different positions, and I will be meeting with folks and requesting input as well from the Commission, as I move forward in putting together a reorg report for Appropriations.

CHAIRMAN CASTRO: Any questions?

(No response.)

MS. SALLO: And then moving on to the Staff Director Report.

III. Management and Operations

Staff Director's Report

MS. SALLO: I put together my first Staff Director Report and I did disseminate it. It was a very short reporting period. The period ran from May 13th through May 24th. I don't know if anyone has any particular questions as to what was indicated in the report.

I did want to bring to the forefront the fact that we have been undergoing an audit by the
Office of Ethics, and we did meet, had our entrance meeting with our auditors that occurs every year around the summer, so we have had our entrance meeting with them as well. We continue to move forward in getting staff reports approved to be uploaded onto our website.

We have also submitted a request to allow us to change our regs, so we have a 12 month period wherein if we want to submit any changes to our regulations we will be allowed to do so, and that should become live soon, because the spring regulation agenda has yet to go live on the web.

As we move forward, I know that there is a concern about current positions that remain open. Obviously, the goal is to bring in any necessary employees that we need in order to meet our mission.

I know that there have been questions about filling two particular positions, OGC and OCRE Director. At this point in time, I think it would be in our best interests to only move forward on filling one position and not both, simply because although we currently have money in our budget, there is no -- we have no idea as of yet what our budget is going to look like in 2014.

As we move forward in preparing our 2015
budget, we have been instructed that we have to come
up with a budget that's five percent, as well as 10
percent, below our control number, and our control
number is 9.4 million dollars, and that's before the
money that goes to the IG. So we're currently in
the process of looking at how to put that together.
So as I move forward, I will advise the
Commissioners -- I'll keep you apprised of any
movements that we have in reference to putting
together a reorg plan. And if you have any
questions, I'm more than able to answer.

CHAIRMAN CASTRO: Any questions for the
Staff Director?

VICE CHAIR THERNSTROM: I have a
question.

CHAIRMAN CASTRO: Go ahead, Madam Vice
Chair, then Commissioner Yaki.

VICE CHAIR THERNSTROM: No, whoever also
had one.

COMMISSIONER YAKI: No, I defer to the
Vice Chair.

VICE CHAIR THERNSTROM: Welcome, by the
way, to your first meeting as Staff Director. I'm
delighted to have you.

MS. SALLO: Thank you.
VICE CHAIR THERNSTROM: I think in general, and maybe other Commissioners don't share this view, but I think in general we need more information about the budget. How much money we have, what it's being spent on, what we can afford. I mean, at the last meeting, the briefing that was held in the Marriott, I assumed that was quite an expensive decision. And I would have liked to have known exactly what that cost us, what the tradeoffs were in terms of was it money that would have come out of X or Y commitments, or potential commitments.

I mean, this has been true ever since I got on the Commission. There has not been enough information given to Commissioners about the budget and where we stand, and what we're spending money on, and how much.

MS. SALLO: I totally appreciate you bringing that to my attention. I will try, as I move forward and I get more comfortable in this position, I'll be more than happy to answer any questions. What I can tell you right now is we currently have a balance of about 3.4 million. However, that doesn't mean that it's there to be used, because what goes against that money is obviously the continued salaries until the end of
this fiscal year, any outstanding travel that the Commissioners may have, the Commissioners' timesheets, any outstanding obligations that we have to pay off anything that we've purchased thus far.

So at least I can give you that ballpark figure today, because that's what I'm ready to speak about, and then next month we can take it from there and I can be a bit more comprehensive, if that's okay with you, Madam Vice Chair.

VICE CHAIR THERNSTROM: That's fine. And would you like to make a comment on how much moving the briefing to the Marriott cost?

MS. SALLO: I'm sorry, Ma'am. I don't have those numbers in front of me. But if everyone is interested in having that information, then I can relay that to you.

VICE CHAIR THERNSTROM: Well, I at least would be. But I don't want you working solely for me.

CHAIRMAN CASTRO: Any other -- Commissioner Yaki, you had a questions.

COMMISSIONER YAKI: This is directed at you, Mr. Charles, as well as the Staff Director. But at what point should we go to ask the Senate for relief from the IG expenditure? Ask if it can be
every other year, every four years, or something like that, because it's disproportionate to our budget, for agencies our side. I think we offered that at the time, and if this is something that we're ready to do at this point, ask for signatures, I'd be the first one to volunteer to help do that.

CHAIRMAN CASTRO: I know we have had conversations around that issue already when I and then my special assistant, now the Staff Director, as well as our head of management and operations, Tina Martin, and John, I don't remember if you were with us. We were asked to appear before the House – well, not to appear, but to meet with the House Appropriations Staff, and I know that those issues are issues that they're thinking about as well.

We have not had a formal conversation with the Senate on that, but I do know that those are conversations that are already beginning, as to how the IG will apply, or what funds go to it, especially since, as our IG has done their work, they're not really finding any issues, and so there may be a way to adjust those. What that adjustment may or may not be, we don't know. But certainly the House Appropriations Committee is already thinking about those issues, and they have raised them with
us, and no doubt the Senate will have a conversation with us about that as well.

So I think you're right, we will follow up on those.

COMMISSIONER YAKI: Thank you, Mr. Chair.

CHAIRMAN CASTRO: You're welcome. Thank you. Any other questions.

(No response.)

CHAIRMAN CASTRO: If not, is there anything else you have on your Staff Director Report?

MS. SALLO: No, sir.

CHAIRMAN CASTRO: Okay. Thank you. The next item under Management and Operations is a report from the Chief of Regional Programs.

III. Management and Operations

Chief of Regional Programs Report

CHAIRMAN CASTRO: David Mussatt, if you could approach the microphone, please? Oh, Acting Chief.

MR. MUSSATT: Good morning.

CHAIRMAN CASTRO: Good morning.

MR. MUSSATT: I submitted the RPC monthly report, so if you have any questions feel
free to ask me. But I just wanted to -- since it's been a few months since I appeared before you, I wanted to update you on a few things that have gone on.

First, just some positive news that I wanted to share, and it may be in the PAU report, but it's always good to repeat positive stuff. It's some press that the advisory committees have been receiving. In the past few months, the New Hampshire Advisory Committee, its report on the inequality of women's prisons was cited, and the Chair was quoted, in the Concord Monitor dealing with Governor Hassan's inclusion of money for a new women's prison in the State budget.

Last week, the Ohio Advisory Committee held a fact finding meeting in Toledo, Ohio, which is an international and national hub of human trafficking, and they held it on that topic. And all three major local TV affiliates covered it. We had quite lengthy articles in the Toledo Blade, a major local paper, and also an article posted on the Faith and Values website.

Also, this Sunday, a story is scheduled to be printed in the Savannah Daily News that will feature findings from the Georgia SAC reports on
school desegregation. So all good things going on in the regions that I wanted to share with you.

A couple other new developments from our GSA committee management secretariat. They have made live and available for use their new user-friendly database of federal advisory committees. It is also an easier website address, just facadatabase.gov, and that's FACA, F-A-C-A, database, one word, dot gov. And in that, you can access the minutes to SAC meetings, you get an end-of-year budget, to the Vice Chair's question about money.

So there's -- it's much more user-friendly than the old system. If you remember the old system, it was kind of clunky, and this is a lot more efficient. There may be some glitches, and things may not be updated. It just came live, so I'm not sure how everything transferred over to the new system, but it's worth looking at.

Also, if Commissioners or their assistants are interested, GSA now has made the FACA management course 101 available free and online for staff to be trained, or retrained, whatever the case may be, in FACA matters. It's a pretty lengthy -- my interns just did it last week. It's five or six
hours, and you have to take a test at the end of it. But it's a pretty thorough introduction to FACA for people who are interested in it. It also is for our DFOs in the field, required to be able to take the 201 course, the more advanced class, which is an in-person class in DC and costs money. So those are two interesting developments from our committee management secretariat.

And then the only last quick thing is, I just wanted to highlight that I submit the reappointment spreadsheets every month, and a few months ago I kind of started highlighting the last column, which is when SACs are to be reappointed within 90 days. And for the Commissioners, I just wanted to bring that to your attention, they're highlighted in blue, so when you go through that spreadsheet and you see a blue box at the end of it, that's a state that's going to be coming up for reappointments, so if you know people in that state that you'd like to nominate please send those names to our new Staff Director.

MS. SALLO: May I?

CHAIRMAN CASTRO: Yes, Madam Staff Director?

MS. SALLO: And I will also be sending a
reminder out to all of the Commissioners and their
Special Assistants reminding them that a SAC may be
up for reappointment, because I'd like to be able to
streamline any recommendations that anyone may be
willing to submit before we move forward on any
slates.

CHAIRMAN CASTRO: Great, thank you.

Anything else, Mr. Acting Chief?

MR. MUSSATT: No, that's it.

CHAIRMAN CASTRO: Any questions for the
Acting Chief of RPCU?

(No response.)

CHAIRMAN CASTRO: Hearing none, thank
you. And since we have amended the agenda, we don't
have any SAC advisory slates, so the next item is
the all-important motion to adjourn.

V. Adjourn Meeting

CHAIRMAN CASTRO: Is there one?

VICE CHAIR THERNSTROM: No.

CHAIRMAN CASTRO: No? So I'll make the
motion. Do I have a second?

COMMISSIONER KLADNEY: Second.

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

(Chorus of ayes.)
CHAIRMAN CASTRO: Okay. I'll assume there's no opposed?

VICE CHAIR THERNSTROM: No, I always oppose. I always oppose on principle.

CHAIRMAN CASTRO: Any abstentions?

(No response.)

CHAIRMAN CASTRO: Thank you, everybody.

The meeting is now adjourned at 10:29 a.m. Eastern Time.

(Whereupon, the above-entitled meeting was adjourned at 10:29 a.m.)